

“IT IS OKAY TO NOT BE OKAY”¹: THE 2021 SURVEY OF LAW STUDENT WELL-BEING

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INTRODUCTION

The Survey of Law Student Well-Being,³ implemented in Spring 2014 [hereinafter “2014 SLSWB”], was the first multi-law school study in over twenty years to assess alcohol and drug use among law students, and it was the first multi-law school study ever to address prescription drug use, mental health, and help-seeking attitudes. The article summarizing the results of the 2014 SLSWB has been downloaded over 12,000 times.⁴

With a desire to learn what has changed since 2014 given the increased emphasis on law student and lawyer well-being among law schools and legal professionals,⁵ the authors sought and received grant funding from AccessLex Institute to implement another survey of law student well-being.⁶ In addition to assessing alcohol use, street drug use, prescription drug use,

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¹ Letter from Loretta Rush, C.J., Indiana Sup. Ct., to Indiana Univ. Robert H. McKinney Sch. L. Dean and 3L Students (Apr. 9, 2020) (on file with authors) (announcing elimination of mental health questions from the Indiana Bar Exam Application Character & Fitness questionnaire).

² The authors are extremely grateful to the law schools from across the country that participated in this Survey, without which this project could not have been undertaken. The authors are equally grateful for the financial support of AccessLex without which this Survey project would not have been possible.

³ Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116 (2016), <https://jle.aals.org/cgi/viewcontent.cgi?article=1370&context=home> [<https://perma.cc/V7K-53GJ>] [hereinafter “*Suffering in Silence*”].

⁴ *Id.*

⁵ See, e.g., NATIONAL TASK FORCE ON LAWYER WELL-BEING, A.B.A., THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 35–40 (2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf> [hereinafter “THE PATH TO LAWYER WELL-BEING”]; see also Jordana Alter Confino, *Where Are We on the Path to Law Student Well-Being?: Report on the ABA CoLAP Law Student Assistance Committee Law School Wellness Survey*, 68 J. LEGAL EDUC. 650, 685–92 (2019) (describing, inter alia, the Task Force Recommendations for faculty as well as the as-of-yet relatively small role that faculty have played in supporting student well-being).

⁶ Jerome M. Organ et al., *Updated Survey of Law Student Well-Being Survey Project* (AccessLex Institute, DG2020007, November 2020).

mental health, and help-seeking attitudes, the 2021 Survey of Law Student Well-Being [hereinafter “2021 SLSWB”] also included new questions focused on law student experiences with trauma and on concerns of third-year law students related to preparing for and taking the bar exam. Additionally, the 2021 SLSWB included a set of open-text questions asking respondents to identify actions their law schools are taking or could be taking to support law student well-being.

Section I provides a literature review, inclusive of research on law student wellness since the original article on the 2014 SLSWB was published in 2016. Section II describes the methods of recruitment, response rates, and design of the 2021 SLSWB survey instrument. Section III provides results from the largest multi-law school study of its kind, comparing results from the 2021 SLSWB with results from the 2014 SLSWB where possible. Section IV discusses the results and includes recommendations for steps different stakeholders within legal education and the legal profession could pursue to better support law student well-being. With representation from thirty-nine law schools across the country, including public, private, and religious law schools, as well as small, medium, and large law schools in terms of student enrollment, the findings of the 2021 SLSWB have implications for multiple stakeholders in legal education, including students, faculty, staff, and administrators, along with boards of law examiners.

I. LITERATURE REVIEW

The mental health of today’s college students and substance use among college students have increasingly become topics of concern. A report published in Spring 2021 noted that almost 40% of the over 33,000 students who participated in a study in Fall 2020 screened positive for depression and that 13% reported thoughts of suicide.⁷ The same study showed that 35% of respondents engaged in binge drinking two or more times in the prior two weeks and that 21% used street drugs in the prior thirty days (primarily marijuana).⁸ While most of the attention given to college student mental

⁷ DANIEL EISENBERG ET AL., HEALTHY MINDS NETWORK, THE HEALTHY MINDS STUDY: FALL 2020 DATA REPORT 3 (Fall 2020), <https://healthymindsnetwork.org/wp-content/uploads/2021/02/HMS-Fall-2020-National-Data-Report.pdf> [<https://perma.cc/262D-6V8J>]. The authors are very grateful to Daniel Eisenberg and the Healthy Minds Survey team. The Healthy Minds Survey is an annual web-based survey examining mental health, service utilization, and related issues among undergraduate and graduate students. Since its national launch in 2007, HMS has been fielded at over 100 colleges and universities, with over 100,000 survey respondents. Healthy Minds openly shares its data on a user-friendly web-based interface.

⁸ *Id.* at 7. Notably, 18% of respondents engaged in binge drinking three or more times in the prior

health has been on the undergraduate population, graduate students ought not to be forgotten when it comes to issues of mental health and wellness. Despite the fact that graduate students make up almost 3.9 million (3,892,351) of the enrolled students in post-secondary institutions of education,⁹ most studies of college student mental health and substance use focus on undergraduate students.¹⁰

Previous literature has shown that professional degree-seeking graduate students, including medicine and law, experience higher rates of depression and anxiety than other graduate students.¹¹ Medical students and law students may also have higher rates of substance use issues than other graduate students.¹² Given the ethical roles and responsibilities each law student will have as a practicing attorney,¹³ it is important to examine the mental health and wellness of law students and for legal educators to ensure that law students are as mentally and emotionally well-prepared for serving clients as they can be.¹⁴

Research on the mental health of lawyers and law students has increased over the past three decades.¹⁵ The American Bar Association (ABA) recognizes the mental health needs of its members and even established a mental health task force in 2017: the National Task Force on Lawyer Well-

two weeks, with five percent of respondents binge drinking six or more times in the prior two weeks.

⁹ *Trend Generator*, INST. EDUC. SCIS., NAT’L CTR. FOR EDUC. STATS., <https://nces.ed.gov/ipeds/TrendGenerator/app/build-table/2/2?f=9%3D3&cid=2> [https://perma.cc/FS5T-BW6B].

¹⁰ See, e.g., EISENBERG ET AL., *supra* note 7 (78% of respondents were undergraduate students, with only 2% of respondents being law students or medical students); Cheryl A. Presley et al., *Alcohol and Drugs on American College Campuses: Use, Consequences, and Perceptions of the Campus Environment*, 1 S. ILL. U. 1, tbl. 4-11 (1994) [hereinafter “Core Alcohol & Drug Study”] (surveying over 40,000 students at seventy-four four-year campuses, of whom slightly over 5% were graduate and professional students). See also Amanda Blakewood Pascale, “Co-Existing Lives”: *Understanding and Facilitating Graduate Student Sense of Belonging*, 55 J. STUDENT AFF. RES. & PRAC. 399 (2018).

¹¹ See Liselotte N. Dyrbye et al., *Burnout Among U.S. Medical Students, Residents, and Early Career Physicians Relative to the General U.S. Population*, 89 ACAD. MED. 443 (2014); see also Liselotte N. Dyrbye et al., *Burnout and Suicidal Ideation Among U.S. Medical Students*, 149 ANNALS INTERNAL MED. 334 (2008); *Suffering in Silence*, *supra* note 3, at 118–19.

¹² Dewitt C. Baldwin et al., *Substance Use Among Senior Medical Students. A Survey of 23 Medical Schools*, 265 J. AM. MED. ASS’N 2074 (1991); *Suffering in Silence*, *supra* note 3, at 118–19; see also Eric R. Jackson et al., *Burnout and Alcohol Abuse/Dependence Among U.S. Medical Students*, 91 ACAD. MED. 1251 (2016).

¹³ See, e.g., THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 8 (emphasizing ABA Model Rules 1.1, 1.3 and 4.1–4.4 regarding competence in representation of clients).

¹⁴ See Nigel Duncan et al., *Ethical Imperatives for Legal Educators to Promote Law Student Wellbeing*, 23 LEGAL ETHICS 65 (2020) (maintaining that it is the moral responsibility of legal educators to act in the face of the knowledge about law student well-being).

¹⁵ Nicholas D. Lawson, “To Be a Good Lawyer, One Has to Be a Healthy Lawyer”: *Lawyer Well-Being, Discrimination, and Discretionary Systems of Discipline*, 34 GEO. J. LEGAL ETHICS 65, 68 (2020).

Being.¹⁶ Yet, when one closely examines the literature on lawyer and law student well-being, a few important distinctions need to be made.

Literature on the rates of lawyer satisfaction and lawyer happiness is quite different from studies on the mental health and substance use of lawyers.¹⁷ Similarly, while the Task Force Report on Lawyer Well-Being talks about lawyer wellness alongside law student well-being,¹⁸ for the purposes of this paper the authors have focused this background literature summary on empirical studies of law student mental health and substance use.

The literature review section¹⁹ of *Suffering in Silence* highlights the relevant data and studies on law student well-being from 1968 to the time of submission of that manuscript. Thus, this Article includes just a literature review since 2015.

A cross-sectional, longitudinal study of law students from a single midwestern law school published in 2016²⁰ reports findings similar to the Benjamin findings from 1990.²¹ While the study was limited to one midwestern law school and a small sample size (103 of 375 law students), the results indicated that “law students . . . experienced high levels of

¹⁶ THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 35–40 (explaining the recommendations the Task Force Report set forth for stakeholders throughout the legal profession, including nine recommendations specifically aimed at law schools: (1) “create best practices for detecting and assisting students experiencing psychological distress;” (2) “assess law school practices and offer faculty education on promoting well-being in the classroom;” (3) “empower students to help fellow students in need;” (4) “include well-being topics in courses on professional responsibility;” (5) “commit resources for on-site professional counselor;” (6) “facilitate a confidential recovery network;” (7) “provide education opportunities on topics related to well-being;” (8) “discourage alcohol-centered social events;” and (9) “conduct anonymous surveys relating to student well-being.”). *See also About Us: How It All Began*, INST. FOR WELL-BEING L., <https://lawyerwellbeing.net/how-it-all-began/> [https://perma.cc/LS3Z-NZBP] (explaining The National Task Force on Lawyer Well-Being is now the Institute for Well-Being in Law).

¹⁷ Compare Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554 (2015) (providing results from empirical research grounded in self-determination theory that highlights that autonomy support, relatedness, competence, and intrinsic motivation are much stronger indicators of lawyer satisfaction and well-being than extrinsic factors), and Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L.J. 225 (2011) (discussing three decades of survey data addressing lawyer satisfaction), with Patrick J. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016) (focusing on alcohol and drug use among lawyers along with other mental health concern).

¹⁸ THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 7.

¹⁹ *See Suffering in Silence*, *supra* note 3, at 118–21.

²⁰ Krystia Reed et al., *Problem Signs in Law School: Fostering Attorney Well-Being Early in Professional Training*, 47 INT’L J.L. & PSYCHIATRY 148 (2016).

²¹ G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RES. J. 225 (1986) (finding law students’ psychopathological symptom responses significantly elevated during law school and after graduation).

psychological distress, which varied somewhat based on the measure.”²² Twenty percent of the respondents reported having a mental health diagnosis,²³ though it is unclear if that diagnosis was present before law school. Further, first-year law students reported lower levels of depression at the start of their first year of law school than they did at the end of their first year of law school.²⁴ It should be noted, however, that the sample size of the first-year law students was small.²⁵

With respect to alcohol use, the study found that 51% of the respondents reported a pattern of binge drinking,²⁶ and that 15% thought that they might have a drinking problem.²⁷ The researchers additionally noted as a particular area of concern in their findings that 18% of respondents reported they drove while under the influence.²⁸

Similar to the Yale “Falling Through the Cracks” report,²⁹ the midwestern law school study found varied rates of help-seeking actions. While nearly half (47.5%) of respondents reported a likelihood of seeking help for mental health in the future,³⁰ alarmingly, 82% of respondents indicated concern that seeking help would affect their career.³¹

A group of psychology professors delved into the literature on lawyer and law student mental health concerns and initiated a research study to create a measure that would theoretically help law schools to accurately measure the primary stressors of law students at their schools.³² Based on anecdotal information, some qualitative interviews with law students, and

²² Reed et al., *supra* note 20, at 151.

²³ *Id.* at 152.

²⁴ *Id.* at 153.

²⁵ *Id.* at 150 (reporting thirty-five at time two and thirty-two at time three).

²⁶ *Id.* at 152. The survey instrument included questions from the Core Alcohol & Drug Survey; binge drinking is defined as five or more drinks in one sitting. *Id.* at 151–52.

²⁷ *Id.* at 152.

²⁸ *Id.*

²⁹ JESSIE AGATSTEIN ET AL., YALE L. SCH. MENTAL HEALTH ALL., FALLING THROUGH THE CRACKS: A REPORT ON MENTAL HEALTH AT YALE LAW SCHOOL 4 (2014), https://law.yale.edu/sites/default/files/falling_through_the_cracks_120614.pdf [<https://perma.cc/23Q4-FJUK>] (analyzing mental health challenges of 296 Yale Law students from Spring 2014).

³⁰ Reed et al., *supra* note 20, at 152.

³¹ *Id.* “Students were afraid of the consequences of seeking help, indicated by the 65.3% who were at least moderately concerned that seeking help would affect their career; 16.8% were extremely concerned it would affect their career.” *Id.*

³² Andrea M. Flynn et al., *Law School Stress: Moving from Narratives to Measurement*, 56 WASHBURN L.J. 259 (2017). The authors studied students from a law school ranked in the top 100 and another ranked in the top twenty. *Id.* at 268.

literature on stress, these professors created the *Law School Stressor Measure (LSSM)*³³ and then measured its validity, reliability, and consistency.³⁴

One of the findings from the study when applying the LSSM indicated that “one-third of the sample experienced significant psychological distress.”³⁵ Further, the findings indicated that stressors associated with three components of the law school environment, as defined by the LSSM, were predictive of psychological distress: *Instrumental Support (IS)*, *Law School Workload (LSW)*, and *Peers*.³⁶ Their findings also suggested that stressors associated with four of five components of the law school environment—*IS*, *Peers*, *Grading*, and *Course Design*—were predictive of GPA.³⁷

A study conducted at two midwestern law schools, which utilized the LSSM as one of the measures, prompted its authors to reflect that “law students are urgently in need of attention from college counselors.”³⁸ While the study had significant limitations,³⁹ the results follow the trend that law students experience high rates of depression and anxiety. Using the Brief Symptom Inventory,⁴⁰ more than half of respondents scored above the 84th percentile for depression,⁴¹ while almost half of the respondents scored above the 84th percentile for anxiety.⁴² Stressors associated with both *LSW* and *Peers*, as measured by the LSSM, were predictors for depression, anxiety, and overall psychological distress in law students.⁴³

³³ *Id.* at 260.

³⁴ *Id.* at 267.

³⁵ *Id.* at 273.

³⁶ *Id.* at 274. *See id.* at 276–80 tbl.2 (offering a more detailed description of the stressors associated with each of these components).

³⁷ *Id.* at 274.

³⁸ Andrea M. Flynn et al., *The Mental Health Status of Law Students: Implications for College Counselors*, 22 J.C. COUNSELING 1, 8 (2019).

³⁹ *Id.* at 5, 9 (describing there were only 316 total respondents from the two law schools, no response rate was reported, there was no measure for substance use behaviors or help-seeking behaviors, and there was no control for previous mental health conditions).

⁴⁰ L. Derogatis, *Brief Symptom Inventory (BSI)*, NAT'L HAZARDS CTR. UNIV. OF COLO. BOULDER 32 (1975), <https://hazards.colorado.edu/nhcddata/chernobyl/ChData/ScalesInstruments/Scales%20and%20Indices/Scale%20Construction%20Instructions/BSI.pdf> [https://perma.cc/V5ZG-6WXF] (explaining “[t]he Brief Symptom Inventory (BSI) consists of 53 items covering nine symptom dimensions: Somatization, Obsession-Compulsion, Interpersonal Sensitivity, Depression, Anxiety, Hostility, Phobic anxiety, Paranoid ideation and Psychoticism; and three global indices of distress: Global Severity Index, Positive Symptom Distress Index, and Positive Symptom Total.” *Id.* Together, these “global indices measure current or past level of symptomatology, intensity of symptoms, and number of reported symptoms, respectively.” *Id.*).

⁴¹ Flynn et al., *supra* note 38, at 8.

⁴² *Id.*

⁴³ *Id.* The creation of and research on psychometric properties of the LSSM provides law schools with a quantitative tool to measure the stressors unique to law school students and to determine which of those stressors their students experience the most, thus potentially allowing for ways to address the levels of

The topic of law student mental health has been researched for various dissertation studies. One psychology doctoral student found that within a sample size of 361 law students levels of stress, anxiety, and depression, as measured by the DASS-21,⁴⁴ were higher for the law student sample than for the general population.⁴⁵ Another doctoral dissertation of a counseling student examined scores on the DASS-21 for first-year law students and the relationship between those scores and the U.S. News & World Report Rankings of law schools.⁴⁶ While the student reported finding no statistically significant relationship between DASS-21 scores and U.S. News rankings, she did find over 50% of respondents indicated some form of depression⁴⁷ and over 60% of respondents indicated some form of anxiety.⁴⁸

So far, the topic of law student mental health has been discussed based on empirical studies conducted in the United States. To appreciate the breadth and depth of the issue, however, one can also reflect on international studies. Australian studies have examined the levels of law student distress between law students at two different law schools,⁴⁹ as well as examining levels of distress between law students and psychology students.⁵⁰ While the measures used in these studies to assess distress tend to be somewhat different than the

stress. *Id.* at 5. Perhaps not surprisingly, the open-ended questions in the 2021 SLSWB around factors that help students, as well as suggestions for improvement, mirror these findings. Law schools may want to consider utilizing the LSSM as an assessment tool. *See infra* notes 130–33 and accompanying text.

⁴⁴ Julie D. Henry & John R. Crawford, *The Short-Form Version of the Depression Anxiety Stress Scales (DASS-21): Construct Validity and Normative Data in a Large Non-Clinical Sample*, 44 BRITISH J. CLINICAL PSYCH. 227 (2005) (explaining the DASS-21, which is a short-form version of the forty-two question DASS created by Lovibond and Lovibond in 1995, “can validly be used to measure the dimensions of depression, anxiety, and stress.” *Id.* at 227–28.).

⁴⁵ Benjamin Bizar-Stanton, *Gathering Evidence: Identifying U.S. Law Students' Levels of Stress, Anxiety, Depression, Mindfulness, and Compassion* (2018) (Ph.D. dissertation, Palo Alto University) (ProQuest) (explaining the doctoral student surveyed law students across the country by reaching student bar associations asking that the online survey questionnaire be sent to students, and that participants had to be current law students and at least 21 years old to participate).

⁴⁶ Amanda Carey, *The Fog of Blackacre: Exploring Depression, Anxiety, and Stress of the American Law Student* (2020) (Ed.D. Dissertation, Northern Illinois University) (ProQuest) (reporting the study was open to first-year law students in their second semester from ABA-accredited law schools across the country, and email invitations were sent to law schools inviting them to participate. *Id.* at 50–60. Forty-four law schools agreed to participate and sent the survey to their first-year law students, and the final sample included just over 1,700 responses, representing roughly 4.5% of all first-year law students in the semester of the survey, across forty-four different law schools distributed across the US News rankings categories. *Id.*).

⁴⁷ *Id.* at 64 fig.1 (reporting 13% mild, 19% moderate, 10% severe, and 15% extremely severe).

⁴⁸ *Id.* at 65 fig.2 (reporting 8% mild, 18% moderate, 10% severe, and 26% extremely severe).

⁴⁹ Natalie K. Skead et al., *The Role of Place, People and Perception in Law Student Well-Being*, 73 INT’L J.L. & PSYCHIATRY 1 (2020).

⁵⁰ Natalie K. Skead & Shane L. Rogers, *Do Law Students Stand Apart from Other University Students in Their Quest for Mental Health: A Comparative Study on Wellbeing and Associated Behaviours in Law and Psychology Students*, 42–43 INT’L J.L. & PSYCHIATRY 81 (2015).

measures used in the aforementioned U.S.-based studies, the DASS-21 is a measure that has been used in both Australia- and U.S.-based studies. Direct means were not reported on each scale for the DASS-21, but the results did show higher means on the scales of depression and anxiety in law students than in psychology students, with a greater difference in anxiety than depression.⁵¹ The DASS-21 was not used in the Australian study that measured distress among Australian law students at two different schools. However, using the brief emotional experience scale,⁵² the research concluded “that law students experience more negative than positive emotional well-being than the general public.”⁵³

Another Australian study evaluated the “relationships between academic demands, social isolation, career pressure, study/life imbalance and adjustment outcomes in law students.”⁵⁴ While the primary purpose of the study was to report on the psychometric properties of an instrument measuring perceived stress (Law Student Perceived Stress Scale, or LSPSS), the results of the study found that over 50% of the law student respondents indicated symptoms of depression and anxiety at the moderate to severe level using the DASS-21.⁵⁵

Additionally, a German study surveyed law students from one German law school and specifically measured depression rates of law students⁵⁶ using the Beck Depression Inventory II.⁵⁷ Results from the study indicate German law student participants’ rate of mild depression was 16.7%, moderate depression was 11.1%, and severe depression was 5.6%.⁵⁸ When aggregated, roughly one-third of the participants of the study met the criteria for some

⁵¹ *Id.* at 82.

⁵² Shane Rogers et al., *The Brief Emotional Experience Scale (BEES): Reliability and Validity as a Measure of Positive and Negative Emotion for Mood Monitoring*, PSYARXIV (2021), <https://psyarxiv.com/p4j7v/> [<https://perma.cc/PT5U-KE6S>] (defining the Brief Emotional Experience Scale as “a self-report mood measure for use in mood monitoring research and applied settings.” *Id.* at 3.)

⁵³ See Skead et al., *supra* note 49, at 6.

⁵⁴ Adele Bergin & Kenneth Pakenham, *Law Student Stress: Relationships Between Academic Demands, Social Isolation, Career Pressure, Study/Life Imbalance and Adjustment Outcomes in Law Students*, 22 PSYCHIATRY, PSYCH. & L. 388, 388 (2014).

⁵⁵ *Id.* at 399. A severe limitation of the study was that the instrument was distributed at the end of the year, during exams (a notoriously stressful time), and that 167 of the initial 647 respondents did not complete all surveys, suggesting response bias. *Id.* at 402.

⁵⁶ Nadja Rabkow et al., *Facing the Truth – A Report on the Mental Health Situation of German Law Students*, 71 INTL J.L. & PSYCHIATRY 1, 2–3 (2020).

⁵⁷ *Beck Depression Inventory (BDI)*, ADDICTION RSCH. CTR., <https://arc.psych.wisc.edu/self-report/beck-depression-inventory-bdi/> [<https://perma.cc/M9YG-YKMC>] (explaining the Beck Depression Inventory II was created by Dr. Aaron T. Beck in 1961 and “is a 21-question multiple choice self-report inventory, one of the most widely used instruments for measuring the severity of depression.” *Id.*).

⁵⁸ Rabkow et al., *supra* note 56, at 4.

level of depression.⁵⁹ This compares to the 2014 SLSWB in which 17% screened positive for depression and 18% reported a diagnosis of depression.⁶⁰

Despite the foregoing studies conducted both within the United States and internationally on law student distress, wellness, and mental health, there remains an ongoing need for comprehensive, empirical studies on law student wellness. Since the 2014 SLSWB, there had not been a multi-law school study that addresses mental health, substance use, help-seeking, trauma, and factors that influence help-seeking behavior until the 2021 SLSWB, the results of which are reported in this Article. It is the authors’ hope that the findings will continue to urge legal education stakeholders to prioritize mental health and wellness for law students.

II. METHODOLOGY

Before launching the 2021 SLSWB, with an intention of adding new questions, the authors revisited the original 2014 SLSWB survey instrument to identify questions that did not directly support the intent of the research or did not ultimately provide meaningful insight. Some questions were thus deleted.⁶¹ At the same time, with growth in the use of e-cigarettes and with the legalization of marijuana in a number of states, the authors felt it prudent to add questions about e-cigarette use and to alter several questions about marijuana use. Further, the 2014 SLSWB used the PHQ-2 form; in the 2021 SLSWB the authors utilized the PHQ-9 to gather more robust data on the depressive symptoms law students experience.⁶² Finally, as indicated above, the 2021 SLSWB added sections about respondents’ experience with trauma; about third-year respondents’ concerns as they looked toward preparing for and taking the bar exam; and open-text questions asking respondents to identify actions their law schools are taking or could be taking to support law student well-being.

As the authors began recruiting law schools to participate in the 2021 SLSWB, they discovered an overwhelming interest from law schools as compared with 2014. In 2014, issues around IRB approval, finances, general anxieties about the sensitive nature of the survey, and privacy concerns

⁵⁹ *Id.*

⁶⁰ See *Suffering in Silence*, *supra* note 3, at 136.

⁶¹ For example, the authors eliminated a few demographic questions that had not generated meaningful results and trimmed some of the more granular questions relating to use or misuse of prescription drugs.

⁶² See *infra* section III.C.1.

resulted in a yield of fifteen participating law schools. In Fall 2020, the authors prioritized outreach to the original fifteen law schools that participated in the 2014 SLSWB, ten of which ended up participating in the 2021 SLSWB. The authors next solicited interest from their networks of law school administrators known to have a vested interest in law student well-being. Finally, law schools were invited to participate through a posting on the National Association of Law Student Affairs Professionals (“NALSAP”)⁶³ listserv. Initially anticipating the participation of up to twenty-five law schools, the authors were gratified when forty-four law schools expressed interest, resulting in a conversation with AccessLex Institute and a generous increase in its grant support. Ultimately, thirty-nine law schools implemented the 2021 SLSWB in Spring 2021, with three law schools opting to implement the survey in Fall 2021 due to scheduling concerns. The results reported below are from the thirty-nine law schools that participated in the Spring 2021 SLSWB.

Factors that may have increased the number of schools expressing interest include the wide dissemination of the results of the 2014 SLSWB, which have been used to implement changes at law schools throughout the U.S.;⁶⁴ the creation and work of the National Task Force on Lawyer Well-Being⁶⁵ and its further dissemination of law student issues; the confidentiality maintained of the law schools that participated in the 2014 SLSWB; the exacerbated concern for the mental health of all university students resulting from COVID-19; and the approach to both funding and IRB approval with the law schools recruited in 2020 as contrasted with 2014.

The 2021 SLSWB underwent full IRB review and received approval to be administered as an anonymous, confidential survey. Once the schools expressed interest, cleared the IRB process, and paid the administrative fee to our partners at SoundRocket, each of the thirty-nine law schools worked with SoundRocket to make the survey available to its students during a two-week period between February and May that did not interfere with exams or spring break or other surveys, such as campus climate surveys or the Law School Survey on Student Engagement (“LSSSE”),⁶⁶ that were previously scheduled. The participating law schools remain confidential unless self-disclosed; however, the schools participating in the 2021 SLSWB largely reflect the current composition of ABA-accredited law schools, excluding

⁶³ NAT'L ASS'N L. STUDENT AFFS. PROS., <https://www.nalsap.org/> [<https://perma.cc/WDS9-B4K5>].

⁶⁴ See, e.g., Confino, *supra* note 5 (describing the many innovations developed by law schools over the last several years).

⁶⁵ See THE PATH TO LAWYER WELL-BEING, *supra* note 5.

⁶⁶ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, <https://lssse.indiana.edu/> [<https://perma.cc/38PC-XQY6>] (explaining the LSSSE is an annual survey in which several law schools participate).

those in Puerto Rico, based on affiliation (public versus private versus religiously affiliated),⁶⁷ geography,⁶⁸ size,⁶⁹ and rank.⁷⁰

Across the thirty-nine participating law schools, the survey was distributed to just over 24,000 JD students, with more than 5,400 respondents providing answers to one or more sections of the survey, reflecting a response rate of nearly 23%. Over half of the law schools had a response rate between 20% and 30%, with eight above 30% and ten below 20%. Given that many law schools were engaged in remote instruction during Spring 2021 in response to the COVID-19 pandemic, the authors welcomed a response rate only modestly below that of the 2014 SLSWB.

Law schools sent students emails notifying them of the law school’s participation in the survey and indicating that they would receive emails from SoundRocket inviting them to participate in the survey. An initial email and two reminder emails were sent to eligible participants. For added protection of respondents and their anonymity, there was not a way to automatically opt out of receiving reminder emails, but respondents were able to exercise their right to opt out of reminders after completing the survey.

As shown in Table 1, below, from the standpoint of ethnicity and from the standpoint of gender, the participating law schools closely resembled the demographics across all law schools, although respondents to the survey were disproportionately women and slightly disproportionately White (as was true with the 2014 SLSWB as well).

⁶⁷ From an affiliation standpoint, the survey included a number of private law schools, a number of public law schools, and a number of religiously affiliated law schools, with an overweighting of private and religious law schools and an underweighting of public law schools.

⁶⁸ From a regional standpoint, law schools in all six regions of the country—Midatlantic, Midwest, Northeast, Southeast, Southwest, and West—participated in the survey, with a slight overweighting to law schools in the Midatlantic, Midwest, and West and a slight underweighting to law schools in the Southeast and Southwest.

⁶⁹ From a size standpoint, nearly one-quarter of those invited to participate in the survey were from large law schools (enrollment of 900 or more), which comprise slightly more than one-quarter of all JD enrollment. Slightly more than half of those invited to participate in the survey were from medium law schools (enrollment of 500 or more), which comprise about 45% of all JD enrollment, and nearly one-quarter of those invited to participate in the survey were from small law schools (enrollment of less than 500), which comprise nearly 30% of all JD enrollment.

⁷⁰ From a rankings standpoint, law schools across all ranking tiers were represented, but with an overweighting of law schools ranked between 50 and 140, and a slight underweighting of top-50 law schools and alphabetically-ranked law schools.

*Table 1 – Comparison of Demographics of Participating Law Schools with All Law Schools*⁷¹

	All Law Schools	Participating Law Schools	Respondents
BIPOC	31.5%	29.5%	29%
White	62%	63.1%	67.8%
Other	6.5%	7.3%	3.2%
Men	45.7%	45%	34.5%
Women	54.1%	54.8%	62.8%
Other	0.2%	0.2%	2.7%

It should be noted that, in the data reported in this Article, the authors made no effort to “reweight” the results to account for the disproportion of law schools in given categories or in the disproportion of respondents based on gender or ethnicity. Accordingly, readers should be cautious about generalizing results. The results, perhaps, should be understood to provide rough estimates of what one might expect within the student population at any given law school, particularly given that there were ranges of responses to any given question across participating law schools. Similarly, law schools with more women or more men might anticipate different results, particularly on those questions for which male respondents and female respondents had notable differences.

The authors recognize the limitations of a self-report instrument and the potential for non-response bias. As a self-report instrument, participants may not be as forthcoming about certain topics like mental health, substance use, prescription drug use, recreational drug use, etc. As we wrote in 2014:

It also is possible that there is response bias or nonresponse bias on the very issues on which the survey is focused—alcohol use, drug use and mental health issues—although it is impossible to know which way the bias might operate. It is possible that there is a response bias in that those students with alcohol or drug use issues or mental health issues at participating law

⁷¹ The ethnicity and gender data for all law schools and for participating law schools are compiled from the ABA’s Standard 509 2020 JD Enrollment and Ethnicity Spreadsheet, covering enrollment at law schools during the 2020–21 academic year. *509 Required Disclosures*, AM. BAR ASS’N, <https://www.abarequreddisclosures.org/Disclosure509.aspx> [<https://perma.cc/AR7U-6CUZ>]. Note that “other” for ethnicity for all law schools and participating law schools includes non-resident aliens (who were not identified separately in the SLSWB).

schools might have been disproportionately inclined to respond to the SLSWB given that it inquired about topics that might have been of particular interest to such respondents. On the other hand, it is possible that there is a non-response bias as well, in that students with alcohol or drug use issues or mental health issues at participating law schools might have been disproportionately inclined not to respond to the SLSWB given that it asked several intrusive questions, some of which involved illegal conduct.⁷²

The authors recognize the personal and sensitive nature of the questions included in the 2021 SLSWB, in particular with respect to respondents’ experience with trauma. As an added safety measure, respondents were sent information about available mental health resources upon completion of the survey. When the survey closed at each school, students who had been invited to participate were sent information about available mental health resources. Within the survey, when asked questions about suicidality in the prior thirty-day period, an endorsement of “yes” prompted a pop-up to the suicide prevention lifeline phone number as well as the contact information for the crisis text line national resource. Finally, throughout the survey respondents were given the option of “prefer not to respond,” of skipping a question, or simply closing out of the survey. The informed consent outlined the potential risks to respondents and clearly communicated that participation was voluntary and that there would be no consequences associated with refusal to participate.

III. ANALYSIS OF SURVEY RESULTS

This section summarizes the data from the 2021 SLSWB in each of the following areas: alcohol use, drug use (street and prescription), mental health conditions, and help-seeking behavior, all of which were part of the 2014 SLSWB. In addition, there is a brief discussion of responses relating to trauma, to concerns about preparing for and taking the bar exam, and to open-text responses regarding actions law schools have taken or could take that support or could support law student well-being.

⁷² See *Suffering in Silence*, *supra* note 3, at 126. See also Lawson, *supra* note 15, at 75 (maintaining the 2014 SLSWB to be of “limited value primarily due to response bias,” citing the Survey response rate).

A. Alcohol and Smoking

1. *Alcohol.* — The 2021 SLSWB documents that consumption of alcohol among law students appears to have decreased in prevalence since 2014. First, as shown in Alcohol Table 1, while the percentage of respondents who have had a drink in their lifetime has remained relatively consistent since the 1991 AALS Survey,⁷³ the percentage of law students responding to the respective surveys who have had a drink in the prior thirty days is lower now than in 2014 and roughly comparable to the early 1990s.⁷⁴

Alcohol Table 1 – Percentage of Respondents Who Have Had a Drink in Their Lifetime and in Prior 30 Days

	2021 SLSWB	2014 SLSWB	AALS (1991)
Drink in Lifetime	96.2%	98%	98%
Drink in past 30 days	81.8%	90%	82%

To assess respondents' use of alcohol, potential problems with alcohol, and dependence on alcohol, several other questions were included in the survey. The majority of the questions were adapted from the Core Alcohol and Drug Survey.⁷⁵ Results below include alcohol usage and behaviors. The results are compared to the 2014 SLSWB and to the Healthy Minds Study.⁷⁶

⁷³ See Robert A. Stein, *Report of the AALS Special Committee on Problems of Substance Abuse in the Law Schools*, 44 J. LEGAL EDUC. 35, 41 (1994) [hereinafter "AALS Report"]. Although one should be cautious in making direct, specific comparisons as the sets of law schools participating in the surveys are not identical, this AALS survey along with the 2014 SLSWB and the 2021 SLSWB provide the only multi-school survey data covering law student alcohol and drug use. Thus, the authors believe it is appropriate to provide comparisons on questions that overlap across the three surveys.

⁷⁴ See *Suffering in Silence*, *supra* note 3, at 127.

⁷⁵ *The Most Comprehensive Alcohol & Drug Survey For Higher Education*, CORE INST., S. ILL. UNIV. CARBONDALE, <https://core.siu.edu/> [https://perma.cc/4Q4E-4N8N].

⁷⁶ See *Suffering in Silence*, *supra* note 3, at 129.

Alcohol Table 2 – Drank Enough to Get Drunk and Binge Drink

Alcohol Consumption	2014 SLSWB	2021 SLSWB
Prior 30 days - drank enough to get drunk	53%	44%
Prior 2 weeks - binge drank at least once	43%	33%
Prior 2 weeks - binge drank 2 or more times	22%	16%

The interesting results here are that law student respondents in 2021 are less inclined to drink enough to get drunk than were law student respondents in 2014 and engaged in binge drinking with less frequency than law student respondents in 2014. These results align with results from the Healthy Minds Study, which showed a drop in binge drinking between 2014 and 2020 (from 37% to 31%).⁷⁷

Across all respondents, male respondents (48%) were more likely than female respondents (44%) to drink enough to get drunk in the prior thirty days, a statistically significant difference. Similarly, with respect to binge drinking, male respondents (37%) also were more likely than female respondents (32%) to have engaged in binge drinking generally, a statistically significant difference, and to have engaged in binge drinking two or more times in the prior two weeks (18% males and 15% females, a statistically significant difference).

White respondents were much more likely than respondents of color to drink enough to get drunk (49% White, 34% African American, 38%

⁷⁷ HEALTHY MINDS NETWORK, <https://healthymindsnetwork.org/data/> [https://perma.cc/LB2P-PNGN] (choose “2014” from “Study Year” dropdown; then choose “Degree” under the “Sample Breakdown” dropdown; and then choose “Binge Drinking (any in past 2 weeks)” under the “Outcome” dropdown; and then click “Submit.” Compare with 2020 by first selecting “2020” from the “Study Year” dropdown and repeating the above steps.).

Hispanic/Latinx, 28% Asian American—all statistically significant differences). Similarly, White respondents (37% and 19% (two or more times)) were much more likely than respondents of color to engage in binge drinking (22% and 10% African American, 25% and 8% Hispanic/Latinx, 21% and 7% Asian American—all statistically significant differences).

Has binge drinking really declined among law students? These data suggest the answer is yes, but this may be a situational reality of the COVID-19 pandemic, which likely had an effect on these results, although it is not an effect that can be accurately measured. We do know that other researchers have noted the pandemic has resulted in a decrease in college student alcohol consumption.⁷⁸ And as noted above, the Healthy Minds Study data shows similar declines in binge drinking among graduate students in 2020 compared to 2014.⁷⁹

We recognize that this could be an indirect result of COVID-19, particularly the social distancing aspects of COVID-19, which have resulted in fewer large social gatherings of students (some of which likely would have involved alcohol consumption) and therefore may not represent an actual sustained change in behavior or attitudes about alcohol use among law students.

The SLSWB also looked at a number of “problem” behaviors associated with drinking, as described in Alcohol Table 3, asking respondents to indicate the frequency with which they experienced in the prior year any of sixteen possible problems associated with drinking. A subset of these problem behaviors is known as the CAGE questionnaire, a widely used tool for screening for alcoholism.⁸⁰ A positive response to two of the four CAGE questions indicates someone who should be evaluated more carefully for alcoholism.⁸¹ Among the respondents to the 2014 SLSWB, 25% had positive responses to two or more of the four CAGE questions (27% of male respondents and 23% of female respondents responding positively to two or more of the four CAGE questions, a result shown to have statistical

⁷⁸ See, e.g., Helene R. White et al., *Changes in Alcohol Consumption Among College Students Due to COVID-19: Effects of Campus Closure and Residential Change*, 81 J. STUD. ON ALCOHOL & DRUGS 725 (2020).

⁷⁹ See HEALTHY MINDS NETWORK, *supra* note 77 and accompanying text.

⁸⁰ NAT'L INST. ON ALCOHOL ABUSE & ALCOHOLISM, NAT'L INSTS. HEALTH, ALCOHOL ALERT NO. 65, at 2 (Apr. 2005), <https://pubs.niaaa.nih.gov/publications/aa65/AA65.pdf> [<https://perma.cc/R42K-XVJT>] (discussing screening process consisting of four questions, called CAGE questions: (1) “Have you ever felt you should cut down on your drinking?” (2) “Have people Annoyed you by criticizing your drinking?” (3) “Have you ever felt bad or Guilty about your drinking?” (4) “Have you ever had a drink first thing in the morning to steady your nerves or to get rid of a hangover” (eye-opener)?).

⁸¹ *Id.*

significance at $p < .01$).⁸² For the 2021 SLSWB, the overall percentage of positive responses to two or more of the four CAGE questions increased slightly to 26.8% without any statistically significant difference between male respondents and female respondents.

Alcohol Table 3 – Percentage of Respondents Who Experienced Various Problems Associated with Drinking (Reported in Descending Order of Frequency in the 2014 SLSWB)

	2021 SLSWB	2014 SLSWB	Core Alcohol & Drug Survey (1992–1994) (Graduate Students)
Vomited	31%	37.3%	28.6%
*Felt that you should cut down your drinking	34.7%	31.4%	N/A
*Felt Guilt, remorse, or regret	31.3%	30.2%	21.8%
Had amnesia or memory loss	19.3%	24.8%	14.6%
Missed class	8.3%	19.3%	12.3%
Had unplanned sex	9.7%	15.9%	NA
Drove while under the influence of alcohol	8%	15.3%	27.7%

⁸² *Suffering in Silence*, *supra* note 3, at 131.

Thought I had a problem— afraid I might be an alcoholic	17.9%	13.9%	8.8%
*Been annoyed with criticism about drinking or been criticized about drinking	11.1%	11.2%	13.8%
Was hurt or injured	4.7%	7.3%	4.4%
*Had an “Eye- opener” first thing in the morning to get rid of a hangover	5.2%	6.7%	NA
Performed poorly on a test/project	6.2%	4.7%	7.7%
Drove a car after five or more drinks in two hours	1.9%	4.0%	NA
Thought about suicide	9.9%	3.9%	2.6%
Been taken advantage of sexually	2.8%	3.1%	4.6%
Taken advantage of someone else sexually	0%	0.1%	2.5%

**Indicates CAGE assessment question*

Encouragingly, the vast majority of these problem behaviors were experienced by fewer respondents in the 2021 SLSWB than in the 2014 SLSWB, several with significant drops, such as “missed class” (dropping from 19.3% to 8.3%); “vomited” (dropping from 37.3% to 31%); had “amnesia or memory loss” (dropping from 24.8% to 19.3%); and “drove while under the influence” (dropping from 15.3% to 8%).⁸³ The biggest increase was for “thought about suicide” which more than doubled from 3.9% in 2014 to 9.9% in 2021. Two other problem behaviors that saw only modest increases were “thought I had a problem—afraid I might be an alcoholic” (moving from 13.9% to 17.9%) and “felt you should cut down on drinking” (increasing from 31.4% to 34.7%).

Notably, 16% of respondents in the 2014 SLSWB indicated at least five of these sixteen problem behaviors, with male respondents being more likely than female respondents to reflect five or more problem behaviors (19% compared with 15%, a result shown to have statistical significance at $p < .01$). In the 2021 SLSWB, a slightly smaller percentage of respondents indicated at least five of these sixteen problem behaviors—15%, with male respondents more likely than female respondents to reflect five or more problem behaviors (16% compared with 15%, a difference that was not shown to be statistically significant).

2. *Smoking.* — Both the 2021 SLSWB and the 2014 SLSWB also included questions about smoking, with the 2021 SLSWB addressing both cigarettes and e-cigarettes. Somewhat encouragingly, cigarette smoking declined between 2014 and 2021. In 2014, 3.7% of respondents smoked at least a half a pack of cigarettes per day in the prior thirty days; in 2021, that declined to 1.2% of respondents who smoked at least a half a pack of cigarettes per day in the prior thirty days. Male respondents were much more likely than female respondents to smoke at least a half a pack of cigarettes per day. In 2014, the difference was 4.9% for males and 2.6% for females. In 2021, the difference was 2.0% for males and 0.7% for females, a result that was statistically significant.

With respect to e-cigarette use, 2.3% of respondents in the 2021 SLSWB had used an e-cigarette at least ten times per day in the prior thirty days, with

⁸³ This might suggest that educational efforts in recent years to discourage drinking and driving have been successful in that law students are using designated drivers more frequently or are taking advantage of services like Lyft or Uber. It also may reflect that law students are sufficiently concerned about having to report a DUI to bar admissions authorities that they try to avoid drinking and driving. Finally, this may be another COVID-19 reality. If law students are not gathering socially to drink as much due to social distancing protocols, there may simply be fewer opportunities for students to engage in drinking and driving. In any event, this is an encouraging result.

male respondents (3.2%) much more likely than female respondents (1.8%, a difference that was not statistically significant).⁸⁴ (The 2014 SLSWB did not have any questions about e-cigarette use.)

B. Drug Use

1. Street Drug Use. — As shown in Drug Table 1, law students responding to the 2021 SLSWB reported use of marijuana in the prior twelve months and prior thirty days at higher percentages than law students responding to the 2014 SLSWB or the 1991 AALS Survey. This is almost certainly attributable to the reality that marijuana has been legalized in some states and that some participating law schools were in states that had legalized marijuana.

Reported use of other psychedelic drugs also increased since the 2014 SLSWB, appearing more similar to the results in the 1991 AALS Survey, both for twelve months and for thirty days. Reported use of LSD increased for twelve months to levels slightly above where they were in the 1991 AALS Survey but showed no change for thirty days, remaining below where they were in the 1991 AALS Survey. Ecstasy use was lower among the respondents to the 2021 SLSWB than among respondents to the 2014 SLSWB (and was not referenced in the AALS Survey).

Among respondents using street drugs, current use of cocaine, LSD, other psychedelics, and ecstasy declined compared to the twelve-month period prior to law school, while marijuana use had increased slightly. Encouragingly, no respondents to the SLSWB reported use of heroin, crystal meth, or anabolic steroids.

Drug Table 1 – 12-Month and 30-Day Use of Selected Street Drugs

	SLSWB (2021)		SLSWB (2014)		AALS (1991)	
	12 Month	30 Day	12 Month	30 Day	12 Month	30 Day
Marijuana	38%	25%	25%	14%	21%	8%

⁸⁴ Notably, White respondents were much more likely than respondents of color to smoke cigarettes and to use e-cigarettes.

Cocaine	6%	2%	6%	2%	5%	1%
Ecstasy	2%	0.4%	4%	1%	N/A	N/A
LSD	3%	0.2%	1%	0.2%	2%	1%
Other Psychedelics	4%	0.8%	1%	0.2%	3%	1%

2. *Prescription Drug Use.* — The 2014 SLSWB was the first survey to assess the use of prescription drugs among law students. As shown in Drug Table 2, between 9% and 15% of respondents reported use of one or more of five categories of prescription drugs with a prescription during the prior twelve months in 2014,⁸⁵ but that range has now grown to between 7% and 23% in 2021. Prescription drug use in the prior twelve months increased for sedatives/anxiety medication (from 12% in 2014 to 15% in 2021), for antidepressants (from 12% in 2014 to 23% in 2021), and for stimulants (from 13% in 2014 to 14% in 2021) but decreased for sleeping medication (from 9% in 2014 to 7% in 2021) and for pain medication (from 15% in 2014 to 10% in 2021).

Female respondents reported a higher rate of prescription drug use *with* a prescription than male respondents in every category of prescription drugs in 2021, results shown to have statistical significance for sedatives/anxiety medication, pain medication, anti-depressants, and sleeping medication.

Drug Table 2 – Use of Prescription Drugs with a Prescription During the Prior Year

	All Respondents		Male Respondents		Female Respondents	
	2014	2021	2014	2021	2014	2021
Sleeping Meds	9%	7%	8%	5%	10%	9%
Sedatives/Anxiety	12%	15%	7%	8%	15%	18%
Stimulants	13%	14%	13%	13%	13%	14%

⁸⁵ *Suffering in Silence*, *supra* note 3, at 134.

Pain Meds	15%	10%	10%	7%	18%	12%
Anti-Depressants	12%	23%	8%	13%	14%	27%

Of those respondents who reported using prescription drugs *with* a prescription in 2014, 13%, roughly one in eight, reported giving away or selling their prescription drugs, with stimulants (17%) and sedatives/anxiety medication (10%) being given away most frequently.⁸⁶ These numbers declined significantly in 2021, with less than 4% reporting giving away or selling their prescription drugs, with stimulants still being the most common drug shared with others (16%). Again, this decline in sharing of prescription drugs may be attributable to the social distancing and social isolation associated with the COVID-19 pandemic resulting in fewer social interactions that might facilitate sharing of prescription drugs.

3. *Prescription Drug Use Without a Prescription.* — Overall, 14% of respondents reported having used prescription drugs without a prescription in the prior twelve months in 2014,⁸⁷ but that number fell to less than 12% in 2021. This is consistent with the previous discussion noting that those with prescriptions were much less likely to share their prescription drugs.

Stimulants were the prescription drug most frequently used without a prescription in 2014 with 9% of respondents, and it remained the most frequently used without a prescription in 2021 with 6% of respondents.⁸⁸ In 2014, pain medication and sedatives/anxiety medication were second most frequently used without a prescription with 4% of respondents.⁸⁹ In 2021, sedatives/anxiety medication was second with 2.9% of respondents while pain medication was third with 1.5% of respondents.

While it is very encouraging that use of prescription drugs without a prescription declined between 2014 and 2021, one concerning note is that among those who indicated that they were using prescription drugs without a prescription, a majority of those using sleeping medication, sedative or anxiety medication, and stimulants all indicated that their recent use had increased compared to the twelve-month period prior to starting law school.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* As was true in 2014, Adderall was the most common stimulant used without a prescription in 2021, with 89% of those using a stimulant without a prescription identifying Adderall as the stimulant they used.

⁸⁹ *Id.*

C. Mental Health and Trauma

As with the 2014 SLSWB, the 2021 SLSWB surveyed law students about their mental health. While overt questions were asked regarding an individual’s history of a mental health diagnosis, the survey also had embedded screening instruments for depression, anxiety, disordered eating, and Posttraumatic Stress Disorder (PTSD). This section reports comparative data between the original study and the current study.

Of note, 68.7% of respondents reported that in the past twelve months they thought they needed help for emotional or mental health problems such as feeling sad, blue, anxious, or nervous. This was an increase from 42% in the 2014 SLSWB. Of those 68.7% who thought they needed help, 56.2% received counseling or therapy from a mental health professional, a slight increase from 2014. In the 2021 SLSWB, women were much more likely than men to have received help (59.5% to 45.8%, a statistically significant difference).

1. *Depression.* — The 2021 SLSWB results indicate that 32.7% of respondents reported a diagnosis of depression in their lifetime, 18% of whom reported they were diagnosed after starting law school. This compares to the 2014 SLSWB in which 18% of respondents reported a diagnosis of depression in their lifetime, 17% of whom reported they were diagnosed since starting law school.⁹⁰ These results indicate that more students are coming to law school with a diagnosis of depression than was true several years ago.

The Patient Health Questionnaire nine-item screening tool (PHQ-9) was embedded within the 2021 SLSWB. The PHQ-9 is used as a screening tool for depression and is proven to have strong reliability and consistency in a variety of settings.⁹¹ Questions on the PHQ-9 ask the respondent to rate on a four-point Likert scale (from zero indicating not at all to three indicating nearly every day) the frequency with which they have experienced symptoms of depression. Symptoms assessed in the PHQ-9 include but are not limited to difficulty with sleep, changes in appetite, and depressed mood.

⁹⁰ *Id.* at 136.

⁹¹ See, e.g., Simon Gilbody et al., *Screening for Depression in Medical Settings with the Patient Health Questionnaire (PHQ): A Diagnostic Meta-Analysis*, 22 J. GEN. INTERNAL MED. 1596 (2007). Some researchers argue that the PHQ-9 should not be used in and of itself to assess for suicide. See, e.g., Peter Na et al., *The PHQ-9 Item 9 Based Screening for Suicide Risk: A Validation Study of the Patient Health Questionnaire (PHQ) – 9 Item 9 with the Columbia Suicide Severity Rating Scale (C-SSRS)*, 232 J. AFFECTIVE DISORDERS 34, 39 (2018). In this Survey, however, the authors asked separate direct questions about suicide and used the PHQ-9 as a screening tool for depression as it is intended to be used.

The 2014 SLSWB utilized the PHQ-2, which is a shortened version of the PHQ-9 focusing only on depressed mood and loss of interest.⁹² Given that the PHQ-2 is simply a shorter version of the PHQ-9, the use of the PHQ-9 allows for both direct comparisons of the PHQ-2 scores in 2014 and 2021, as well as a comparison between the PHQ-2 scores in 2014 and 2021 and the PHQ-9 scores in 2021.

The percentage of respondents screening positive for depression using the PHQ-2 scoring doubled from 17% in 2014 to 34% in 2021.⁹³ This increase is entirely consistent with the increase noted previously regarding respondents indicating a diagnosis of depression. Looking at the PHQ-9, scores of ten to fourteen indicate moderate depression, fifteen to nineteen indicate moderately severe depression, and scores of twenty or higher indicate severe depression.⁹⁴ Among respondents to the 2021 SLSWB, 20% indicated moderate depression on the PHQ-9, 13% indicated moderately severe depression, and 10% indicated severe depression, a total of 43% indicating moderate depression or more serious depression.

2. *Anxiety*. — The 2021 SLSWB indicates that 39.8% of respondents reported a diagnosis of anxiety in their lifetime, 22.5% of whom reported they were diagnosed after starting law school. This compares to the 2014 SLSWB in which 21% of respondents reported a diagnosis of anxiety in their lifetime, 30% of whom reported they were diagnosed since starting law school.⁹⁵ Once again, this indicates that significantly more students are coming to law school with a diagnosis of anxiety in 2021 than was the case several years ago.

The Kessler-6 (hereinafter “K6”), which is a screening tool commonly used to screen for psychological distress,⁹⁶ was embedded in both the 2014 SLSWB and the 2021 SLSWB. The K6 is a shorter version of the Kessler-10 (hereinafter “K10”), both of which are reported to have sound psychometric properties.⁹⁷ The six-question tool focuses on both anxiety and depression

⁹² See Kurt Kroenke et al., *The Patient Health Questionnaire-2: Validity of a Two-Item Depression Screener*, 41 MED. CARE 1284 (2003).

⁹³ See *Patient Health Questionnaire-2 (PHQ-2)*, NAT’L HIV CURRICULUM, <https://www.hiv.uw.edu/page/mental-health-screening/phq-2> [https://perma.cc/AQ4A-4UE5] (explaining, using the PHQ-2, a positive screen is based on a score of three or higher).

⁹⁴ See *Personal Health Questionnaire (PHQ-9) Score Interpretation and Possible Actions*, <https://static.cigna.com/assets/chcp/pdf/resourceLibrary/educationCenter/phq9XscoringAndActionsv2.pdf> [https://perma.cc/HS6Z-UHKE].

⁹⁵ *Suffering in Silence*, *supra* note 3, at 138.

⁹⁶ See Louise Mewton et al., *The Psychometric Properties of the Kessler Psychological Distress Scale (K6) in a General Population Sample of Adolescents*, 28 PSYCH. ASSESSMENT 1232 (2016).

⁹⁷ See Bert LR Cornelius et al., *The Performance of the K10, K6 and GHQ-12 to Screen for Present State DSM-IV Disorders among Disability Claimants*, 13 BIOMED CENT. PUB. HEALTH 128 (2013), <https://bmcpubhealth.biomedcentral.com/track/pdf/10.1186/1471-2458-13-128.pdf>

symptoms.⁹⁸ The two questions that ask about anxiety-related symptoms indicate that law student participants in the study may need further evaluation for anxiety. Law student responses indicated that in the last thirty days, the majority (71.5%) of the law students in the study felt nervous: 15.6% reported feeling nervous all of the time, 24.2% most of the time, and 31.9% some of the time. Another symptom associated with anxiety is feeling restless. Over 50% of participants reported some level of restlessness or of being fidgety, 9.67% reported feeling restless or fidgety all of the time, 16.1% most of the time, and 26.2% some of the time.

On the overall K6 scoring, a score of eight or above indicates some mild or moderate mental illness while a score of thirteen or more suggests severe distress. Using these scoring methods, in the 2014 SLSWB, 37% screened positive for anxiety/mental distress (23% mild or moderate, and 14% severe).⁹⁹ In the 2021 SLSWB, 54% screened positive for anxiety/mental distress (26% mild or moderate, and 28% severe). This increase is consistent with the increased percentage of people diagnosed with anxiety as shown in the prior paragraph. The mean score on the K6 across all respondents in the 2021 SLSWB was 9, much higher than the mean score reflected in other large populations that have taken the K6.¹⁰⁰

3. *Disordered Eating.* — When asked directly if respondents were ever diagnosed with disordered eating, 6.3% reported yes, 12% of whom reported the diagnosis came after law school. In 2014, just over 3% reported a diagnosis and only 3% reported the diagnosis came after law school.¹⁰¹ This direct comparison suggests the percentage of law students reporting disordered eating has doubled since the 2014 study. That said, it should be noted that the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5) revised the classification of eating disorders, now including binge eating disorder, and changed the term to disordered eating.¹⁰²

[<https://perma.cc/4FYV-XRDE>]; see also Satvinder S. Dhingra et al., *Psychological Distress Severity of Adults Reporting Receipt of Treatment for Mental Health Problems in the BRFSS*, 62 PSYCHIATRIC SERVS. 396 (2011) (describing Kessler-6 as an effective screening instrument for anxiety).

⁹⁸ See R. C. Kessler et al., *K-6 Distress Scale – Self Administered*, MEASUREMENT INSTRUMENT DATABASE FOR SOC. SCIS., <https://www.midss.org/content/k-6-distress-scale-self-administered/> [<https://perma.cc/3HMA-5R7E>].

⁹⁹ *Suffering in Silence*, *supra* note 3, at 137–38.

¹⁰⁰ See Shinichiro Tomitaka & Toshiaka A. Furukawa, *Mathematical Pattern of Kessler Psychological Distress Distribution in the General Population of the U.S. and Japan*, 21 BIOMED CENT. PSYCHIATRY 188 (2021), <https://bmcp psychiatry.biomedcentral.com/track/pdf/10.1186/s12888-021-03198-y.pdf> [<https://perma.cc/ME7U-5YHT>] (citing four studies with numbers of respondents ranging from 24,000 to 200,000 with mean scores of 4.3, 2.9, 2.8 and 2.8).

¹⁰¹ *Suffering in Silence*, *supra* note 3, at 139.

¹⁰² See Martin Fisher, Marisol Gonzalez, & Joan Malizio, *Eating Disorders in Adolescents: How Does the DSM-5 Change the Diagnosis?*, 27 INT'L J. ADOLESCENT MED. HEALTH 437 (2015); see also Hans

Moreover, whereas previously an individual needed to be less than 85% of their weight and had to have stopped menstruation to be diagnosed with anorexia, with these criteria removed more inclusive parameters now exist to meet the criteria for anorexia. Thus, one could surmise that with the new classification system, which includes more than anorexia and bulimia, that there are a larger percentage of individuals who meet the criteria for disordered eating now who did not in 2014.

Survey participants also responded to the SCOFF, a five-question survey instrument developed in the United Kingdom¹⁰³ used to determine if further testing and analysis is needed to diagnose an eating disorder. The SCOFF guidelines suggest that a positive endorsement of two of the five responses indicate further evaluation is needed.¹⁰⁴ In the 2021 SLSWB, 29% of respondents endorsed two or more items compared to the 2014 SLSWB in which 27% of respondents endorsed at least two items.¹⁰⁵ These data suggest that based on SCOFF scores alone, almost 30% of law student respondents would benefit from further testing to determine whether they are experiencing disordered eating, a figure much higher than the 6% who indicated they have been diagnosed with disordered eating at some point in their lives. Notably, female respondents in both the 2021 SLSWB (35%) and the 2014 SLSWB (34%) were much more likely than male respondents (19% in 2021 and 18% in 2014) to screen positive for disordered eating on the SCOFF, results that were statistically significant in both surveys.

4. *Self-Harm.* — Data on self-harm is important particularly considering suicidal ideation. While non-suicidal self-injury is regularly noted and recognized as just that (i.e., not indicative of suicidal behavior), research informs us that acquired ability to inflict pain can be associated with suicide.¹⁰⁶

Students were asked specifics of cutting, burning, picking skin, etc. The question asked specifically “how often in the past 12 months have you intentionally hurt yourself without intending to kill yourself.”¹⁰⁷ In response

Wijbrand Hoek & A.A. van Elburg, *Voedings- en eetstoornissen in de DSM-5* [“Feeding and eating disorders in the DSM-5”], 56 *TUJDSCHRIFT VOOR PSYCHIATRIE* 187 (2014).

¹⁰³ John F. Morgan, Fiona Reid & J. Hubert Lacey, *The SCOFF Questionnaire: Assessment of a New Screening Tool for Eating Disorders*, 319 *BRIT. MED. J.* 1467 (1999). The SCOFF, like the PHQ and Kessler, is a screening tool and not necessarily a diagnostic tool. *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Suffering in Silence*, *supra* note 3, at 138–39.

¹⁰⁶ See, e.g., THOMAS JOINER, *WHY PEOPLE DIE BY SUICIDE* 47 (2005).

¹⁰⁷ During the 2021 SLSWB, a respondent questioned the necessity of asking about specific forms of self-harm. Upon reflection, the authors have concluded that it is more useful to summarize the percentage of students inflicting self-harm than the specifics of the types of self-harm. If the authors have another Survey of Law Student Well Being, they presently are inclined to delete the more granular question about

to this question, a total of 15.7% of respondents endorsed responses ranging from once or twice to nearly every day in the past year, an increase from 9% of respondents in the 2014 SLSWB.¹⁰⁸ In the 2021 SLSWB, females (16.9%) were more likely than males (12.7%) to engage in non-suicidal self-injurious behavior, a difference shown to have statistical significance. In the 2014 SLSWB females (9.8%) also were more likely than males (8.3%) to have engaged in non-suicidal self-injurious behavior.

5. *Suicidal Thoughts.* — Participants were asked if they had had suicidal thoughts ever in their lifetime, had suicidal thoughts in the past twelve months, or had thoughts of suicide in the past thirty days. In accordance with best practices, if a respondent indicated suicidal thoughts within the past thirty days, a pop-up message appeared on how to contact the suicide prevention lifeline. Nearly 33% of respondents indicated they had seriously thought about attempting suicide in their lifetime. This figure is an increase from the 2014 SLSWB in which 21% of respondents indicated they had seriously thought about attempting suicide in their lifetime.¹⁰⁹ The percentage of respondents who indicated they had thought seriously about suicide in the past twelve months was 11%, compared to 6% from 2014. About 5% of respondents indicated that they had thought seriously about suicide in the past thirty days.¹¹⁰

It is important to note that isolation and lack of connection increases risk for suicide. Given that the survey was conducted during the COVID-19 pandemic, it is arguable that the percentage of respondents who have thought about suicide in the past twelve months is higher than it might have been without the COVID-19 pandemic having occurred. Nevertheless, these individuals are still our law students. For sake of comparison, according to the CDC, twelve million Americans thought seriously about suicide in 2019¹¹¹ and 13% of graduate respondents in the Healthy Minds Study for 2020 reported thoughts of suicide in the past year,¹¹² up from 7% in 2014.

6. *Trauma.* — The 2021 SLSWB added a set of questions to better understand the extent to which law students have experienced trauma and may still be dealing with the effects of trauma. The initial question asked about whether respondents had experienced trauma in one of fifteen

specific types of self-harm.

¹⁰⁸ *Suffering in Silence*, *supra* note 3, at 139.

¹⁰⁹ *Id.*

¹¹⁰ This question was not posed in the 2014 SLSWB.

¹¹¹ See *Facts About Suicide*, CTRS. DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/suicide/facts/index.html> [<https://perma.cc/KJ6V-LVMN>].

¹¹² EISENBERG ET AL., *supra* note 7, at 3.

categories, including, for example, natural disaster; accident; assault; sexual assault; serious illness or injury; emotional or physical abuse; etc.

Over 80% of respondents answered yes to having experienced trauma in at least one category, with roughly 70% of respondents having answered yes to having experienced two or more types of trauma.¹¹³

Those who answered yes to one or more trauma categories were then asked to complete the PCL-5. The PCL-5 is a self-report instrument used to screen for PTSD.¹¹⁴ The instrument consists of twenty items associated with the diagnostic criteria set forth by the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5) regarding PTSD. Respondents are asked to rate on a Likert scale of zero to five (zero meaning not at all to five meaning extremely) as to how often they have been bothered by a particular symptom of PTSD.

Scores of thirty-one to thirty-three represent the most common scoring range used to identify those who may benefit from having a PTSD evaluation,¹¹⁵ with thirty-one recognized as including more possible false positives and thirty-three recognized as including more possible false negatives.¹¹⁶ Of those who experienced trauma, 28.6% met the cutoff score of thirty-one, while 26.3% of those who experienced trauma met the cutoff score of thirty-three. Recognizing that these data do not tell us that 26.3% or more of respondents who have experienced trauma are, in fact, suffering from PTSD, these data do suggest that at least 26.3% of those who experienced trauma should be evaluated for PTSD. Given that more than 80% of respondents had experienced some trauma, this means roughly 20% or more of all respondents should be evaluated for PTSD.

These results were surprising—both in terms of the percentage of respondents who have experienced trauma and the percentage of those who

¹¹³ The authors are only briefly addressing the trauma data in this Article, and they are planning on writing a separate article analyzing the trauma data in much greater detail.

¹¹⁴ See F.W. Weathers et al., *The PTSD Checklist for DSM-5 (PCL-5)*, U.S. DEP'T VETERANS AFFS. (2013), <https://www.ptsd.va.gov/professional/assessment/adult-sr/ptsd-checklist.asp> [<https://perma.cc/4H4N-7AGE>].

¹¹⁵ *Id.* (describing the scoring process).

¹¹⁶ *Id.* One can also follow the DSM-5 diagnostic rule which requires a positive endorsement (a score of at least 2 (moderately)) across clusters of questions: “1 [Criterion] B item (questions 1-5), 1 [Criterion] C item (questions 6-7), 2 [Criterion] D items (questions 8-14), [and] 2 [Criterion] E items (questions 15-20).” *Id.* But it is noted that the “use of a cutoff score tends to produce more reliable results than the DSM-5 diagnostic rule.” NAT'L CTR. FOR PTSD, USING THE PTSD CHECKLIST FOR DSM-5 (PCL-5), at 2, <https://www.ptsd.va.gov/professional/assessment/documents/using-PCL5.pdf> [<https://perma.cc/6QPC-26M5>]. See also Michelle J. Bovin et al., *Psychometric Properties of the PTSD Checklist for Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (PCL-5) in Veterans*, 28 PSYCH. ASSESSMENT 1379 (2016).

have experienced trauma screening positive for PTSD. As the authors dig deeper into the data, they hope to look more closely at relationships between trauma and other mental health concerns and between trauma and alcohol and drug use.

D. Help-Seeking Attitudes

One impetus for the 2014 SLSWB and the 2021 SLSWB centers on gathering data on the help-seeking attitudes of law students—why law students would or would not seek help for the challenges they report. In the section below, law student responses on help-seeking actions and thoughts are presented, with comparison, when possible, to the 2014 data.

1. *Factors Discouraging Help-Seeking.* — Both surveys asked respondents about what may deter them from seeking help for a mental health and/or substance use-related concern(s). Help Seeking Table 1 below provides a summary of that information:

Help-Seeking Table 1 – Factors Discouraging Help-Seeking

Factor	2014 SLSWB Substance Use	2021 SLSWB Substance Use	2014 SLSWB Mental Health	2021 SLSWB Mental Health
Potential threat to bar admission	63%	59.6%	45%	44%
Potential threat to job or academic status	62%	58.6%	48%	44.6%
Social stigma	43%	39%	47%	42%
Privacy concerns	43%	41%	30%	34.8%

Finances	41%	46.4%	47%	54.4%
Handle on my own	39%	38.4%	36%	47%
Time	36%	NA	34%	NA

With respect to help-seeking associated with alcohol and drug use, these data show modest progress on the concerns that were most manifest in 2014: concern that seeking help would be a potential threat to bar admission or a potential threat to job or academic status. Social stigma and privacy concerns also were slightly less manifest in 2021 than in 2014. However, financial concerns have increased as a factor discouraging respondents from seeking help.

With respect to help-seeking associated with mental health issues, these data show modest progress on the first three concerns, but show increased concern relating to privacy concerns and finances.

While these data suggest there is less social stigma associated with help-seeking, which is good, the fact that more than half of respondents remain concerned that seeking help for substance use and nearly half of respondents remain concerned that seeking help for mental health issues will affect bar admission or job or academic status indicates that much more work needs to be done to encourage law students to see the value in seeking help. Law schools, law firms, and boards of law examiners need to do more to increase in law students the sense of trust that seeking help for mental health and substance use issues will not get in the way of being admitted to the bar or finding employment.

The fact that a larger percentage of respondents in 2021 expressed financial concerns and that one-third of respondents listed hours being inconvenient as a reason to avoid seeking assistance indicates that practical realities remain a significant disincentive to seeking help. More will need to be done either to increase hours and improve publicity around availability of professionals, and more may need to be done to lessen the financial burden of seeking help. Notably, the concern about finances has been cited in other areas affecting law students.¹¹⁷ Female respondents (49%) were even more

¹¹⁷ See IND. UNIV. CTR. FOR POSTSECONDARY RSCH., THE COVID CRISIS IN LEGAL EDUCATION: 2021 ANNUAL SURVEY RESULTS 9 (2021) (explaining 43% of law students reported an increased concern about

concerned about financial concerns than male respondents (42.5%), a result shown to have statistical significance. Law schools will serve their students well to provide access to emergency funds¹¹⁸ for mental health and substance use support, as well as for essential needs such as food and basic provisions. Consultation with treatment centers for sponsorships when applicable may also be a helpful resource.¹¹⁹

Female respondents viewed potential threat to job or academic status as a reason not to seek help for an alcohol or drug use problem in greater numbers than male respondents (61.5% compared with 54.6%), a result shown to have statistical significance. Female respondents also viewed potential threat to admission to the bar as a greater concern than male respondents (62.6% compared with 55.1%), a result shown to be statistically significant.

Although the percentage of respondents who reported they could handle the problem themselves remained largely steady (38.4%, down from 39%) for alcohol and drug use, the gap between female and male respondents narrowed (30% female and 51% male in 2014, to 35% female and 43.6% male in 2021), a result shown to have statistical significance. This, perhaps, suggests that male students are showing an increasing willingness to accept that seeking help, at least around issues for alcohol and drug use, is okay. For mental health, however, the percentage of respondents who reported they could handle the problem themselves increased by nearly one-third—from 36% to 47%. Here the gap between men and women also narrowed between 2014 and 2021 (29% female and 45% male in 2014, to 43.6% female and 50.6% male in 2021), a result shown to have statistical significance.

2. *Using Professionals for Substance Use.* — Respondents were asked if they had ever used a health professional or similar resources for issues related to alcohol or drugs, with 5.4% of respondents indicating that they had seen a physician for one of these challenges—a slight increase from 2014 (4%),¹²⁰ and a slightly greater inclination in their last versus first year of law school (5.9% versus 4.2%). A slightly higher number of respondents (7.9%)

having enough food, with a further disparity among students of color); *see also* TIFFANE COCHRAN ET AL., A.B.A. & ACCESSLEX INST., STUDENT DEBT: THE HOLISTIC IMPACT ON TODAY’S YOUNG LAWYER (2021) (demonstrating, *inter alia*, that student debt resulted in life-changing decisions, such as putting off having children and buying a home); *see also* Karen Sloan, *Law Grads With High Debt, Financial Stress Do Worse on the Bar Exam, Study Finds*, LAW.COM (May 20, 2021, 1:29 PM), <https://www.law.com/2021/05/20/law-grads-with-high-debt-financial-stress-do-worse-on-the-bar-exam-study-finds/?sreturn=20220229171331> [<https://perma.cc/9A9Q-F2JL>].

¹¹⁸ Author David Jaffe has on file a process and form for any interested school.

¹¹⁹ *See infra* section IV for additional information on this topic.

¹²⁰ *Suffering in Silence*, *supra* note 3, at 140.

indicated that they had seen a counselor for these issues, again with a greater inclination in their final year (8.8% versus 7.4%).

While the percentage of respondents who indicated they would seek assistance from a physician if they thought they had an alcohol or drug use problem dropped significantly between 2014¹²¹ and 2021 (81% to 61%), this is most likely attributable to the additional option of selecting a counselor as a resource, which was not provided in the 2014 SLSWB: 80.7% of respondents indicated they would seek assistance of a counselor. The percentage of respondents between the two Surveys who indicated they would seek assistance from a Lawyer Assistance Program and from a dean of students remained similar in 2021 as in 2014¹²² (30% and 13%, respectively, the latter down from 14%).¹²³ Slightly more than half of respondents indicated they would seek the assistance of an on-campus counselor.

An option that was new to the 2021 SLSWB asked respondents if lack of sensitivity to cultural or sexual identity issues was a reason for not seeking help around problems with alcohol or drugs. Although only 9.9% of respondents indicated it was a factor that was discouraging them from seeking help, 28.8% of African American respondents and 20.7% of Asian American respondents identified this factor as a concern, a result shown to be statistically significant. Similarly, respondents of color were much more likely to indicate that seeking treatment, at least for issues around alcohol or drugs, was unacceptable in their culture. Only 4.7% of respondents overall indicated this as a concern, but for those who reported being of Asian American descent (15.9%), Hispanic descent (9.3%), and African American descent (8.5%), the numbers were much higher, results all shown to be statistically significant. This suggests, perhaps, that greater attention should be given to hiring diverse professionals both in the area of alcohol and substance use and generally around diversity, as well as to working on bridging the cultural gap and comfort level in seeking assistance when needed.¹²⁴

¹²¹ *Id.*

¹²² *Id.*

¹²³ This latter percentage expresses an ongoing demonstration that respondents do not believe their dean of students can help them, as they feel the dean of students is more likely to report them or is obligated to report them to the Bar (*see infra* section III.D.3 for similar numbers on confidentiality and disclosure to the Bar).

¹²⁴ A related question was also posed on whether sensitivity to cultural issues was a reason for not seeking assistance around mental health. Responses also contrasted sharply between those who answered “yes” overall and the (higher) percentage of African American, Hispanic, and Asian American respondents who responded in the affirmative; however, the sample size (denominator) was much smaller. Further, it was noted that, for Asian Americans, the affirmative responses to this query of cultural

When asked if having conversations with professionals around alcohol or drug issues would be kept confidential, respondents indicated having varying levels of agreement; the strongest level of trust in confidentiality was reported with respect to on-campus counselors (79.2%), followed by state LAPs (Lawyer Assistance Programs, 75.1%), followed by deans of students (52%). Similarly, when asked if a conversation with certain officials would delay or prevent admission to the bar, respondents expressed increasing levels of belief that it would: while just over a third (34.4%) felt a conversation with an on-campus counselor would be an issue, this figure rose for conversations with state LAPs (44.7%) and with deans of students (55.6%).

Overall, 49.7% of respondents believed that if they had a drug or alcohol problem, their chances of getting admitted to the bar were better if the problem was hidden, roughly identical to the 2014 SLSWB.¹²⁵ The fact that this number has not improved since 2014 is somewhat discouraging.

3. *Using Professionals for Mental Health.* — Respondents to the 2021 SLSWB were asked related questions regarding help seeking for mental health concerns as they were to concerns around alcohol and drugs. Because law schools have developed or increased the use of student access to counselors on a remote, tele-basis, questions about use of these counselors were added to the survey regarding mental health.

Respondents were asked their likelihood of seeking assistance from the professionals highlighted in Help-Seeking Table 2 for a mental health issue:

Help-Seeking Table 2 – Comfort with Various Service Providers for Mental Health Issues

Help-Seeking Source for Mental Health	2014 SLSWB	2021 SLSWB
Physician	79%	80.7%
On-Campus Counselor	NA	56.5%

sensitivity were four times that of the overall response rate, as seeking help for mental health concerns was reportedly seen as unacceptable in their culture.

¹²⁵ *Suffering in Silence*, *supra* note 3, at 142.

LAP	NA	21.9%
Law school official/dean of students	15%	15%
Online services	NA	58.9%

Respondents also were asked if they felt conversations with professionals about mental health issues would be confidential—

Help-Seeking Table 3 – Confidentiality of Mental Health Conversations

Conversations are confidential:	2014 SLSWB	2021 SLSWB
Dean of Students	65%	62%
State LAP	80%	76%
Telemental Health Service	NA	87.6%

—and if they would delay admissions to the bar:

Help-Seeking Table 4 – Effect on Bar Admission of Mental Health Conversations

Delay Admissions to Bar:	2014 SLSWB	2021 SLSWB
Dean of Students	42%	36%
State LAP	39%	32%
On-Campus Counselor	NA	24%
Telemental Health Service	NA	19%

Interestingly, even though Help-Seeking Table 3 indicates respondents had less confidence in 2021 than in 2014 that conversations with various professionals regarding mental health issues would remain confidential, Help-Seeking Table 4 highlights that a smaller percentage of students in 2021

than in 2014 believe that such conversations will delay admission to the bar, which is somewhat encouraging.

On a related note, in response to a separate question, a smaller percentage of respondents in 2021 (39.9%) compared to 2014 (43%)¹²⁶ indicated: “If I had a mental health problem, my chances of getting admitted to the bar are better if the problem is hidden.” While this number has not declined regarding substance use concerns as noted above, it is gratifying to see modest progress on this number with respect to mental health concerns.

4. *Encouraging Others to Seek Help or Taking Steps to Inform Appropriate Parties About Concerns About Classmates.* — The authors’ conversations with veteran deans of students resulted in the belief that peer support and encouragement for a classmate to seek help is often better received than the same advice and support of well-intended law school officials. As such, participants in both Surveys were asked to what extent they would encourage a classmate to seek help from the sources listed in Help-Seeking Table 5:

Help-Seeking Table 5 – Encouraging Classmates to Seek Help

	SLSWB Substance Use (2014)	SLSWB Substance Use (2021)	SLSWB Mental Health (2014)	SLSWB Mental Health (2021)
Campus Counseling Center	76%	78%	77%	81%
State LAP	50%	53.7%	49%	48%
Dean of Students	33%	31.5%	36%	35%
Health Professional	NA	91%	NA	82.1%*

¹²⁶ *Suffering in Silence*, *supra* note 3, at 142.

Online Mental Health Service	NA	NA	NA	77%
Take No Action	33%	23.4%	36%	19%

*("talk with a health professional off campus and not part of the state LCL/LAP")

Notably, female respondents were far more likely than their male counterparts (80.7% to 73.8%) to encourage a classmate to seek help from the counseling center for an alcohol or drug problem or for a mental health problem (85% to 78%). This response is similar to the 2014 Survey in which female respondents were more likely to encourage a classmate to seek help from the counseling center around alcohol and drugs (82%) and mental health (83%) than their male counterparts (70% alcohol and drugs; 68% mental health).¹²⁷ The significantly lower percentage of students who indicated they would take no action to encourage a classmate to seek help is a positive sign; however, the likelihood of taking no action when learning of a classmate's substance use challenge increased from the first year to the third year of law school (19% to 25% to 28%), as did the likelihood of taking no action when learning of a classmate's mental health challenge (16.4% to 19.5% to 21.6%), a pattern similar to what was shown in 2014. This data suggest that students are less likely to become involved as the bar application and employment draw closer.

Similar to the 2014 SLSWB, respondents in the 2021 SLSWB were asked how likely they would be to do each of the following if they believed a classmate who had an alcohol or drug use or mental health problem that was affecting their ability to fulfill their responsibilities as a student and such classmate had refused to talk with professionals about it despite the respondent's encouragement to do so:¹²⁸

¹²⁷ *Suffering in Silence*, *supra* note 3, at 143.

¹²⁸ The 2014 SLSWB asked:

"If you believed a fellow law student had an alcohol or drug problem that was sufficient to significantly impair his or her ability to fulfill his responsibilities as a student, and the student had refused to talk with the campus counseling center, the state LAP or LCL program, or the Dean of Students despite your encouragement to do so, how likely would you be to do each of the following."

Help-Seeking Table 6 – Informing Providers of Concerns about Classmate

Inform the:	Alcohol or Substance Use (2014)	Alcohol or Substance Use (2021)	Mental Health (2014)	Mental Health (2021)
Counseling Center	23%	25.7%	31%	32.8%
Dean of Students	17%	16.4%	20%	20.8%
State Lawyer Assistance Program (LAP)	12%	13.3%	15%	15%

Respondents were next asked what factors would discourage them from informing an official about concerns for a fellow student:¹²⁹

Help-Seeking Table 7 – Factors Discouraging Informing Providers

	SLSWB Alcohol or Substance Use (2014)	SLSWB Alcohol or Substance Use (2021)	SLSWB Mental Health (2014)	SLSWB Mental Health (2021)
Potential threat to job or academic status	60%	71%	53%	54.4%
Potential threat to bar admission	57%	64%	48%	51%
Social stigma	54%	56%	53%	47.7%
Don't want to get involved	53%	37%	54%	31.7%

See id.

¹²⁹ *Id.* at 144.

	SLSWB Alcohol or Substance Use (2014)	SLSWB Alcohol or Substance Use (2021)	SLSWB Mental Health (2014)	SLSWB Mental Health (2021)
Consequences to relationship	NA	64.2%	NA	59.4%

As above, when discussing an individual's reasons for not seeking help, stigma around concern for a classmate has also fallen. And, while the overall percentage of concern has risen around informing an official regarding a classmate because of the potential threat to job, academic status, or to bar admission, there is a significant reduction in an unwillingness to get involved, perhaps a sign that as with reduced social stigma, education, and self-awareness is allowing a greater number of students to take action and raise these issues.

E. Analysis of SLSWB Open-Ended Questions

A noticeable difference between the 2014 SLSWB and the 2021 SLSWB is the inclusion of a set of open-ended questions. One question asked respondents to report actions that their law school has taken that have been helpful in supporting students' overall wellness [hereinafter "helpful"]. The other question asked respondents to offer suggestions for what their law school could do to support their well-being [hereinafter "suggestions"]. Between 40% and 50% of the respondents chose to respond to one or both questions.

To analyze the results, the Principal Investigators [hereinafter "PIs"] first went through the responses and removed any identifying information so as not to reveal any school names. To make the effort more efficient, SoundRocket provided a random sample from all respondents to the 2021 Survey—representing 800 respondents (roughly 15% of all respondents). Nearly half of this random sample had provided written comments in response to these open text questions. Then two of the three PIs analyzed the data independently to determine themes or codes from the data, a usual practice for qualitative research.¹³⁰ Consensus was reached, and the resulting themes are reported and elaborated on below.

¹³⁰ Michael Williams & Tami Moser, *The Art of Coding and Thematic Exploration in Qualitative Research*, 15 INT'L MGMT. REV. 45, 48 (2019).

1. *Helpful.* — When analyzing the responses about what their law school does that is helpful to their overall wellness, three categories emerged: *culture of care*, *support around mental health*, and *availability of resources*. Each of these topics is expanded on below.

The PIs utilized the category *Culture of Care* to capture the statements of respondents centering around aspects of the culture of their law school that they reported were helpful. Several responses indicated both open communication and an open community as something particularly helpful, specifically “community aspect,” “communication regarding resources,” and “communications from deans.” Similarly, respondents made statements about their law school embracing a non-competitive collaborative environment as a factor that helped them to feel supported (i.e., “The focus is on communal success, rather than individual success.”). Perhaps not surprisingly, this observation also arose in the suggestions section for actions that law schools could take to help better support law student wellness.

Respondents specifically mentioned that law school employees had an impact on their wellness (i.e., “All the people are extremely kind. Students, faculty, and staff all seem genuinely interested in you as a person and want you to succeed and be happy.”). Cited repeatedly were *caring professors* and *friendly staff*, and an environment that promoted diversity and inclusion. Opportunities to socialize and to have study groups and peer mentors were also mentioned as items that the students found as helpful.

The second category was *Mental Health*. This category also surfaces in the suggestions section below. Some of the specific responses from respondents about what their law school does that is helpful around mental health include: access to counseling services, specifically access to counselors for the law school only; accessibility and availability of LAP or LCL services; and access to mental health apps such as Headspace, Amelia, and Talkspace. Some less common responses but mentioned enough to warrant inclusion were: character and fitness information on the topic of mental health; meditation services and options on campus; and fitness options on campus. Responses also included wellness “days.” The authors surmise what respondents mean about this below in the suggestions section as well. But when respondents referred to “days” as helpful they specifically stated, “mental health days off from class” and “wellness days.” In a more direct statement about what has been helpful a student respondent indicated, “The days built into the academic calendar that affords the students ‘mental health’

days—provided a sense of relief that students could depend on to focus on themselves.”

The third category the PIs identified based on responses was *Available Resources*. This category refers to resources that law schools have provided to students that they deemed as helpful and included such items as: wellness events, orientation, career counseling, free food, bar exam prep, and access to alumni.

2. *Suggestions*. — Themes that emerged as suggestions for improving well-being include: *mental health, culture, inclusive culture, academic schedule, academic support, and beyond law school*. What follows below is a brief synopsis of each.¹³¹

(a) *Mental Health*. — The theme of mental health clearly emerged in an analysis of the open-ended questions regarding suggestions. Some of the specifics within this theme include: onsite counseling (increased sessions); provision of mental health resources (inclusive of out-of-state providers); addressing Bar Examiner requests and character and fitness concerns; affordability of counseling and insurance; stress management program and tips; therapy dogs on campus; and response to student trauma.

The data implies that law students are seeking greater transparency around mental health access. Providing information up front on the cost, number of sessions, resources, and what implications seeking counseling may have on the character and fitness components of the bar application are just a few suggestions. In addition, suggestions reflect law schools being transparent about mental health not being an afterthought and that law schools can recognize its importance by programming around the topic. Programs that proactively offer suggestions on stress management and those that address student trauma, such as bringing therapy dogs to campus, assure students that their faculty and administrators endorse the importance of these issues.

(b) *Culture*. — When reviewing the suggestions from respondents about what law schools could do to promote and support student wellness, several of the responses centered on the culture of the law school. For example, a number of suggestions were some version of creating an environment that is collaborative more than competitive. A similar sentiment was expressed to “end boot camp/hazing culture.” It seems that some respondents feel that their law school is talking about these issues but is not taking action on them,

¹³¹ While it is beyond the scope of this Article to detail all the specifics within the many suggestions provided in the 2021 SLSWB, it is the authors’ intent to further elaborate in upcoming presentations and publications.

as reflected in several expressions (i.e., “actually listen to the students/don’t just talk about it”).

One suggestion surrounding the culture of law school was to promote mental health days. Both from the mix and volume of responses on this topic, the PIs believe that respondents seek both the creation of programs and events centered on mental health (such as mental health week) but also programming distributed throughout each semester, as well as the opportunity to take a mental health day and not be penalized for the absence. Given the outcry among respondents over the removal of spring break at several law schools, together with these suggestions, it might behoove law school administrators to consider whether they have additional space for scattered mental health days for either reduced or non-school-related work.

The final two suggestions fitting into the category of law school culture are possibly directly related to COVID-19. One suggestion was to have social events on campus and the other was to be more transparent and effective with communication.

(c) Inclusive Culture. — While the theme of culture—specifically law school culture—was discussed above, the PIs felt to best represent the voices of the respondents there needed to be an additional theme regarding culture involving the word “inclusive.” Suggestions surrounding support for individuals from multiple communities and identities surfaced repeatedly. Respondents repeatedly suggested hiring more faculty and staff that are Black, Indigenous, and people of color (BIPOC), as well as offering greater support to BIPOC students. Similarly, respondents suggested having better support for LGBTQ+ students. Responses indicated that, generally speaking, schools need to be friendlier towards students with disabilities and that there should be mandatory implicit bias training for faculty, staff, and students. Also reflecting the creation of an inclusive culture, three additional suggestions surfaced: being mindful of evening and part-time students, being accepting of conservative students, and allowing a safe space to talk about religion.

While just one respondent used the word toxic when describing the political environments of their law school (“address the toxic political atmosphere at the school”), the sentiment about politics and its role in law school was echoed by several respondents under the suggestions: “Focus on being an institute of learning and leave political rhetoric outside;” “not be openly hostile to certain political views;” and “stop encouraging racial and political radicalism . . . law schools should remain neutral in order to diversely represent ALL law students.”

(d) Academic Schedule. — It will come as no surprise to anyone who followed law school issues during the pandemic that the majority of

suggestions regarding the academic schedule included not canceling spring break in 2021. There were other suggestions surrounding the academic schedule, such as not having more than three academic classes a day, not holding exams the week immediately following Thanksgiving, allowing more reading days, considering flexibility on due dates, and considering the differing needs of law students on maternity or paternity leave.

(e) *Academic Support.* — The theme of academic support was one that the PIs utilized to capture suggestions surrounding the law school academic structure. The two suggestions that arose with the most frequency included eliminating the curve and “ditching cold calling/no more Socratic method.” It is perhaps worth noting that previous research examining law student stress specifically cites use of the Socratic method as a recurring source of anxiety.¹³²

Another suggestion within academic support was flexibility post-pandemic. We are surmising this means recording lectures when possible, allowing for absences without extensive (or any) documentation, potential flexibility when being called upon in class, etc. The PIs think it is important to note that the students recognize that the ABA, and not any individual law school, is the obstacle for leniency on absences. To be sure, while offering flexibility during uncertain times makes a good deal of sense, students in need of ongoing support should be asked to work with a relevant law school or university official (such as a counselor or disability expert, as applicable) to ensure that any challenges that have arisen can be addressed so that they do not become permanent.¹³³

Respondents also suggested that there be more transparency about grades so that students know how they and their peers are performing, suggesting that this would alleviate some undue stress. Respondents also think that having more experiential classes that allow greater understanding of “real life lawyering” would be helpful, and that a greater abundance of scholarships also would be helpful.

(f) *Beyond Law School.* — The final theme that emerged from suggestions for improving well-being falls under “beyond law school.” Respondents offered the following suggestions: better preparation for the bar exam; improved career services offerings; assigning mentors to students;

¹³² Lawrence Silver, *Anxiety and the First Semester of Law School*, 4 WIS. L. REV. 1201 (1968) (explaining, in a qualitative study of nine 1L students at one law school in 1968, students reported high levels of concern about failure and anxiety and the Socratic method was a specific source of anxiety). See also Alan Reifman et al., *Depression and Affect Among Law Students During Law School: A Longitudinal Study*, 2 J. EMOTIONAL ABUSE 93 (2000).

¹³³ One quid pro quo for repeated requests from a student is to seek confirmation that they have met with a relevant official, by providing a limited waiver for the dean of students to confirm the same.

discussing pro bono work options; and presenting and exposing students to “real life” lawyering.

F. Summary Findings

With such a robust data set it can be difficult to discern what is most significant among the findings. While appreciating that any one stakeholder may have a different notion of what is a critical data point, we summarize here some of the key takeaways from the 2021 SLSWB seven years after the original 2014 SLSWB. In doing so, the authors acknowledge here and throughout the Article that some positive and negative changes may be an indirect result of COVID; however, these changes are the reality for our law students now and for at least several years to come:

- Near doubling of respondents with a diagnosis in their life of depression (to 33%) and anxiety (to 40%) with similarly high percentages screening positive for both depression and anxiety;
- Increase in those needing help for an emotional or mental health problem in the prior year from 42% to nearly 70%;
- Significant increase in suicidal thoughts in the past year (from 6% to 11%) and in lifetime (from 20% to 33%);
- Slight improvement in the percentage of students believing they have a better chance of getting admitted to the bar if a mental health problem is hidden, but no change in those believing they have a better chance of getting admitted to the bar if a substance use is hidden;
- Decrease in the percentage of respondents who would take no action if there was a concern about a classmate;
- Increase in popularity of mental health apps as an additional resource;
- Overwhelming number of respondents having experienced trauma (new data in 2021 Survey) with one in five respondents screening positive for PTSD;
- Decrease in the percentage of respondents engaging in binge drinking and the percentage of respondents sharing prescription drugs and using prescription drugs without a prescription; and
- Increase in concern about finances as a factor in receiving help.

IV. DISCUSSION

Readers reaching this portion of the Article and hopeful for the magic bullet to law student well-being are apt to be disappointed. Notwithstanding the incredible movement underway in the area of law student wellness over the last eight or so years, there is no panacea. However, experiences of the authors and conversations with deans of students, counselors, and scores of those seeking to improve the lives of law students have provided what the authors hope is a helpful pathway toward making change or strengthening what law schools already have in place. The path to law student well-being meanders: it is at once dean/top-down, student/bottom-up, and, of course, intersects at many levels.

What is clear is that our law students need help. Perhaps starker than any other data point: nearly 70% of respondents reported needing help in the prior twelve months for emotional or mental health problems.¹³⁴ This figure, up from 42% in 2014,¹³⁵ might be in part attributable to factors surrounding COVID, such as uncertainties about the future, extended periods of isolation, and the like; however, the fact remains that these are our students, and we bear at least some responsibility for their welfare. With over 80% of respondents reporting having experienced some form of prior trauma,¹³⁶ it is little wonder that a good number of our law students consistently struggle.

With the recent passage of revisions to ABA Standards 303(b), which speaks to helping students engage in “an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice,” and Standard 508(b) which requires schools to provide “[i]nformation on law student well-being resources,”¹³⁷ this is a particularly propitious time for various administrators and faculty and staff at law schools to invest more energy and creativity and resources in supporting law student well-being.

¹³⁴ See *supra* section III.C.

¹³⁵ *Id.*

¹³⁶ See *supra* section III.C.6.

¹³⁷ See Michelle Weyenberg, *ABA Passes Revisions to Accreditation Standards*, NAT'L JURIST (Apr. 5, 2022, 10:00 AM), <https://nationaljurist.com/aba-passes-revisions-to-accreditation-standards/> [https://perma.cc/LNW2-NVGG]. The quoted language associated with revised ABA Standard 303(b)(3) comes from Interpretation 303-5, while the language regarding revised Standard 508 comes from Standard 508(b). Memorandum from the ABA Standards Comm. to the Council of the ABA Section of Legal Educ. and Admissions to the Bar 3, 9 (Aug. 16, 2021), https://www.americanbar.org/cotent/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/aug21/21-aug-final-std-recs-with-appendix.pdf [https://perma.cc/XVB4-AYTN].

A. Dean

There is no greater voice that a law school can have in its quest to support law student well-being than its dean. The COVID pandemic has contributed to student anxieties while simultaneously creating budget issues among many law schools. The dean as head of the school nevertheless must lead by example both in affirming overarching support for well-being in words, and by putting those words into action with at least a minimum level of financial resources.

The many demands on a dean include threads that tie into student well-being. Attracting a competitive entering class calls *inter alia* for a visible demonstration (i.e., website or messaging) reflecting the law school’s focus on these issues, especially as undergraduates become increasingly self-aware about what they believe they need to succeed. At orientation, the dean has the first opportunity to set a positive, supportive tone for well-being for the entire student body. The dean’s welcome often extols a list of achievements of individual members of the entering class. In singling out these accomplishments, however, the dean may unwittingly be instigating imposter syndrome¹³⁸ before classes have even begun. Instead, the dean should ensure that his or her comments invite the entire class to feel that each student is present at the same level and for the same reasons (“You belong here!”).

Current law students have been vocal about on-campus or at least dedicated nearby counseling, and a dean does not want to defend “other priorities” as a rationale not to support this resource. The dean should ensure that students receive consistent well-being programming throughout each semester; doing so provides practical support, viewed both as resources in the moment and as a constant reminder that students need to take care of themselves on a regular basis (i.e., “I might not stop at the table for the stress ball, but the school cares enough to be there;” “I need to remember to keep taking care of me.”).

Whether or not a law school dean is actively teaching, he or she should promote and support faculty taking time from class to raise student well-being in at least some form.¹³⁹ Further, given the myriad constraints on their time, the dean should create a committee composed of students, staff, and

¹³⁸ Gill Corkindale, *Overcoming Imposter Syndrome*, HARV. BUS. REV. (May 7, 2008), <https://hbr.org/2008/05/overcoming-imposter-syndrome> [<https://perma.cc/CU5W-3FYX>] (defining “imposter syndrome” as “a collection of feelings of inadequacy that persist despite evident success.” *Id.*); see also David Grenardo, *The Phantom Menace to Professional Identity Formation and Law School Success: Imposter Syndrome*, 47 UNIV. DAYTON L. REV. (forthcoming 2022).

¹³⁹ See *infra* section IV.B.

faculty to ensure well-being concerns are aired and initiatives brainstormed, with periodic updates to the entire law school community.¹⁴⁰ The committee should be charged with, *inter alia*, consideration of past law school well-being assessments and suggestions, as well as distribution of a current survey of law school well-being.¹⁴¹ Even alumni, when informed that their alma mater has taken steps toward improved wellbeing, often reply: “I wish that had been in place when I was there.” Furthermore—and not that well-being initiatives should be developed for this reason—there is often potential for development/fundraising tie-in.

B. Faculty

Traditionally, law faculty are encouraged to focus on teaching, scholarship, and service. While at first blush student well-being may not seem a factor, student-facing administrators will cite well-intended faculty involvement as critical to a student (or law school) having any chance at well-being. Indeed, in the 2021 SLSWB, students both singled out faculty who went out of their way inside and outside the classroom and offered suggestions for improvement (or, in some cases, initiation).¹⁴²

Faculty should be aware of the multiple roles they play before their students. Many of the students are first in the family to attend graduate school. Others have had poor or no role models and are looking to learn from and mimic the positive aspects they see in their professors. Faculty communications inside and outside the classroom thus send clear signals reflecting their willingness to support students beyond their academic endeavors.¹⁴³ To be sure, while there is no exact science for this, there is a middle-ground classroom approach where a student can feel supported while not being deprived of their education. Suggestions for faculty in the classroom may include:

¹⁴⁰ As an aside, the dean should consider whether said committee is focused exclusively on the student community. A strong argument can be made that equal or similar well-being support for staff and faculty will help to raise the entire community.

¹⁴¹ The authors of this Article are committed to assisting any law school seeking implementation of an internal well-being survey based on the Survey used in this Article.

¹⁴² See Confino, *supra* note 5, at 685–92 (describing, *inter alia*, the Task Force Recommendations for faculty as well as the as-of-yet relatively small role that faculty have played in supporting student well-being).

¹⁴³ One law school dean of students contrasted his spectrum of faculty from one who took ten minutes at the start of every class to check in with her students, to a colleague who had no chairs in his office except for his own—an indication that he did not want students in his office, or at least for an extended period.

- Opening with music or a lighthearted video, or with a brief (2-minute) breathing or meditation exercise;
- Themed classes (wear your favorite concert t-shirt; show off your pet (if on Zoom));
- Life is a theme song—what are your students’ theme songs (and then play them);
- Stress ball toss; and
- Even a simple “This was a hard class/topic/subject area; let me know (email, office hours, etc.) if you need additional assistance.”

More broadly, faculty have the ability to facilitate student well-being by addressing issues that faculty often miss, but that are of real importance to their students:

- Providing a timely syllabus (and including course trigger warning language where applicable, as well as a reminder that counseling services exist and are an appropriate resource for students to seek);
- Posting past exams (while ensuring they are easy to find);
- Ending class on time; and
- Providing breaks (whether simply to stretch, slightly longer for a bathroom trip, etc.).

Faculty should explore what the counseling center on campus has available or consider QPR¹⁴⁴ or Mental Health First Aid¹⁴⁵ training to become more sensitive to these issues.

At the same time, some faculty feel that only by “hardlining” law school will their law students be prepared for practice. Faculty at any law school struggling with this conflict may wish to have a conversation about being “hard on the problem, soft on the people.” The notion that being supportive and promoting warmth makes one weak or not ready for the profession is becoming less acceptable as students from law schools that are displaying well-being graduate into the profession and bring with them an elevated sense of the importance of self-care. At a bare minimum, faculty should keep an eye on whether students are attending their course. Check in with your registrar to ensure your roster is updated, and do not assume that a student who is missing has simply dropped the course. However, do assume that if a

¹⁴⁴ QPR INSTITUTE, <https://qprinstitute.com/> [<https://perma.cc/GT4T-HXX7>].

¹⁴⁵ MENTAL HEALTH FIRST AID, <https://www.mentalhealthfirstaid.org/> [<https://perma.cc/Z3TK-NNNQ>]; see also Confino, *supra* note 5, at 686.

student is missing your class, it is not because they are comfortable with your material or just behind in another course. Instead, chances are high that your student is struggling across-the-board. Flagging this for your dean of students or relevant official can be a lifesaver.¹⁴⁶

C. Dean of Students

At the hub of all things law student well-being, the dean of students' role in this area is at once becoming easier and more challenging. As law students grow into the positive outcomes of well-being initiatives, they naturally clamor for more support. At the same time, the movement in this area over the last eight or so years should provide the platform for deans of students to seek and receive assistance to help "raise the village" of the next generation of healthy lawyers.

As in 2014,¹⁴⁷ this Survey highlights that students do not by-and-large trust that they can work through their personal issues with their dean of students without having those conversations cause problems. While this may come as a surprise or disappointment to deans of students, they thus face two options. Deans of students can double down on educating students about the dean of students' responsibility to maintain confidentiality in most circumstances, or they can assume that these issues of mistrust and misunderstanding will continue regardless and focus on other aspects of well-being. To be sure, there are myriad opportunities for a dean of students to underscore their dedication in this area:

- Be a significant presence at orientation. Students are trying to absorb a lot during this period, but they need to know that you and your office are the hub for their concerns. Be straightforward (i.e., "issues you bring to me are confidential, unless they reflect an imminent harm to self or to others."). Promote the well-being resources made available by or through your institution, but be sure to follow up with an electronic, printable version. And show your human side. These students are meeting you for the first time and the impression you make is critical. Consider how you want them to view you and reflect that to them;

¹⁴⁶ See *Suffering in Silence*, *supra* note 3, at 151–52 (describing more fully the importance of focusing on class attendance).

¹⁴⁷ *Id.* at 140–42 (noting only 14% of respondents would seek help from their dean of students for an alcohol or drug problem and only 15% for a mental health problem, with more than half believing that a conversation about an alcohol or drug problem would delay or prevent admission to the bar, and 42% feeling the same about a mental health concern).

- Advocate for a professional counselor dedicated to law students. So many of this Survey’s “helpful” comments reflected on the importance of having this resource, as well as the challenges for students who had to go outside for this type of assistance.¹⁴⁸ If budgeting is an issue, seek a compromise on an annual utilization assessment; if the service is being used, it will be difficult to argue for its termination;
- Without overstepping any level of confidentiality, check in periodically with your counselor(s) to see if anything of a systemic nature has come to the fore. A counselor may notice, for example, a professor who may be making things difficult for several students; first-year students in particular do not have a basis for comparison and may not realize that certain actions should not be occurring;
- Conduct brief, mandatory¹⁴⁹ or random check-in student meetings, allowing you or your department to make contact with as many students as possible. Leave room to move up a student who is flagged for attention (i.e., reported by a faculty member as repeatedly absent from class or other behavior of concern). Such meetings, especially if you use them to re-raise well-being resources, aid in destigmatizing a student from seeking help. They also ensure that each student has had at least one touch with a law school administrator and paves the way for comfort in future dialogue should it become necessary;
- Schedule well-being events throughout the semester.¹⁵⁰ Fold the array of possibilities into a student survey to strengthen buy-in. Invite one or more student organizations to co-host;
- Plan ahead for financial resources. A secured budget in advance of each semester allows for adequate planning, staffing, and publicity of events. If the law school itself is not a stable source of funding, reach out to law firms for sponsorship of events. Law firms are also relatively new to the well-being movement but are becoming increasingly savvy around law students’ heightened expectations of support when they graduate into the profession, and many are interested in showcasing this to students. Provide an amount or a list of programs you wish to host and let the law

¹⁴⁸ See *supra* section III.E.1.

¹⁴⁹ Jennifer Cerney, Assistant Dean of Students, & Yvonne Tafuto, Law School Mental Health Counselor, University of Connecticut School of Law, Session at the National Association of Law Student Affairs Professionals Conference: 73 Hours: What One Law School Learned from Taking an Untraditional Approach with Their 1L Class (June 14, 2019).

¹⁵⁰ Ideas for programming are unlimited. The authors suggest considering weekly mindful meditation, yoga sessions, puppy days (while supporting the nonprofit), pop-up breakfast bars, smoothie bars, seated massage, giveaway stress balls, espresso shots, etc.

firm select. Offer to pay for branded poster boards and to reflect the law firm in all publicity surrounding the event;

- Recruit a student research assistant to develop publicity and tabling. These students often have a better eye for what their classmates respond to on social media. Also use the student for your tabling, reducing the likelihood of a table being passed by if staffed only by you;
- Support development of a student organization dedicated to mental health issues. Give them free rein to interact with the student body but check in periodically about any systemic issues or concerns that have arisen;
- Recruit students in recovery and those with mental health challenges that are confident and are under control to serve as peer mentors. Have them meet with your university counseling center or state LAP for training on how to interact with their classmates, including creating boundaries and knowing when they need to be referred to a professional. Ensure there is a way for these students to be accessible independent of your office;
- Host a session alongside the board of bar examiners for your predominant bar jurisdiction to discuss character and fitness, having that official share the importance of seeking help while underscoring the dean of student's role. Host the session no later than the second year. If possible, find an alum who is comfortable sharing their story of support they received from you;
- Support a well-being survey. Ask what is working well and invite suggestions for change or improvement. If there are limitations on resources, be upfront about it. There is little worse than raising expectations via a survey that cannot be met;
- Find ample opportunities to bring your state LAP¹⁵¹ to the students. Utilize orientation, professional responsibility courses, and occasional tabling in high-profile areas. Redundancy here sends only the positive message that seeking help is okay and a sign of strength;¹⁵²
- Develop metrics. How many students are you seeing and over what specific issues? Student affairs offices have often been the least staffed student-facing department when contrasted with offices such as career services and academic support. Use the numbers in a request for additional support if needed; and

¹⁵¹ *Commission on Lawyer Assistance Programs*, A.B.A., https://www.americanbar.org/groups/lawyer_assistance/ [<https://perma.cc/UH8X-CTJR>]; see also Confino, *supra* note 5, at 656–59 (discussing in more detail the use of Lawyer Assistance Programs in law schools).

¹⁵² See Confino, *supra* note 5, at 676–85 (discussing the use of orientation and re-orientation throughout the first year and the incorporation of well-being into professional responsibility classes).

- Be aware of the potential for (if not the reality of) unconscious biases that may affect your interactions with students. There is often a presumption because of this position that you already “know better.” Take a refresher course; for individual situations where you are unsure of your footing, consult with a colleague prior to taking action. A consistent approach will support your comfort level, as well as assure students they are being treated fairly and are being supported in their well-being.

With so much to address, above all is the importance of self-care. Remind yourself daily of what works for you to unwind and see to it. If we are not taking care of ourselves, we are little good to others, especially our students. And much like we preach to our students, if professional or personal challenges are coming to a head, seek assistance. Even dean of students’ colleagues can be a great sounding board given the commonalities they face.

D. Students

Students are at the core of everything herein. Their time in law school is but a blink of an eye when contrasted with the years before and following, yet it is such a critical period in their lives. A check with a professional counselor working with law students will reveal that most students present with issues having little to do with, although perhaps exacerbated by, the pressures of law school.¹⁵³ Students facing the reality that law school is “finishing school”—the last stop before entering the profession—are often for the first time grappling with deep-seated issues involving family, relationships, and other personal circumstances. Many decisions and changes are occurring during a relatively brief law school period, often atop external expectations in addition to simply trying to figure out oneself. Yet it is at this same critical juncture that law students need to be considering what is going to drive them in their career while maintaining well-being and balance in their lives.¹⁵⁴

¹⁵³ When viewed in a linear way, the typical law student leaves the comfort of home for college to finally experience long-awaited freedom. While the more well-adjusted student may seek professional assistance for issues coming to their attention, for many, this period is more carefree and flowing. The suddenness of transition to law school then, with a new language, a greater number of intelligent classmates challenging one’s sense of worth, financial obligations often being incurred by the student for the first time, and concerns about being gainfully employed by graduation all can contribute to a sense of loss of control, as well as to heightened anxiety, depression, reliance on substances, etc.

¹⁵⁴ See, e.g., KATHRYNE M. YOUNG, *HOW TO BE SORT OF HAPPY IN LAW SCHOOL* (2018); ANDREW GUTHRIE FERGUSON, *THE LAW OF LAW SCHOOL: THE ESSENTIAL GUIDE FOR FIRST-YEAR LAW STUDENTS* (2020); LAWRENCE KRIEGER, *THE HIDDEN SOURCES OF LAW SCHOOL STRESS: AVOIDING THE MISTAKES THAT CREATE UNHAPPY AND UNPROFESSIONAL LAWYERS* (2014) (all offering advice on how

Students looking to be mindful about their future well-being need to focus on what brought them to law school, whether those motivations remain the same, and if they will serve them well. The notion, for example, that a big law partnership with its presumptive prestige, significant salary, and ability to live a high-end lifestyle will bring satisfaction to a law-student-as-future-lawyer has been largely debunked, and only a small percentage of law students have such opportunities in any event.¹⁵⁵ However, a student who arrived at law school with the ultimate goal of making a lot of money (for any number of reasons) may find the need to recalibrate, adding yet another layer of challenges and concerns.

These extrinsic questions often arise alongside academic challenges while in law school. When law students receive first semester grades, for example, they are often disheartened and tend to equate their self-worth with their grades. But as suggested above, “. . . the top grades and high salaries so much emphasized in law schools and law firms do not improve one’s likelihood of a happy and satisfying life. In fact, just the opposite. . . .”¹⁵⁶ For many law students, beginning to deepen their understanding about the realities of law school, their place in it, and adjustments they will want to consider to ultimately lead a healthier life begins in law school.

Similarly, one element of resiliency deals with mindsets. Research has shown that having a growth mindset, as opposed to a fixed mindset about intelligence and abilities, has overall benefits to students.¹⁵⁷ This too is new knowledge to many law students, requiring yet another access point, time, and space for learning, reflection, and adjustment. All in all, with so much going on and so much at stake, it is little wonder that so many law students find themselves struggling.

With the foregoing in mind, students will strengthen their approach to and well-being success in law school if they consider the following (and

to get the most out of law school).

¹⁵⁵ See, e.g., Krieger & Sheldon, *supra* note 17, at 578–80 (discussing the distinction between extrinsic and intrinsic motivations).

¹⁵⁶ *Id.* See also Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002).

¹⁵⁷ See, e.g., Lisa Blackwell et al., *Implicit Theories of Intelligence Predict Achievement Across an Adolescent Transition: A Longitudinal Study and an Intervention*, 78 CHILD DEV. 246 (Jan.–Feb. 2007); *The Path to Law Student Well-Being, Adopting a Growth Mindset*, A.B.A. COMM’N ON LAW ASSISTANCE PROGRAMS (Mar. 11, 2019), <https://soundcloud.com/aba-colap/the-path-to-law-student-well-being-podcast-series-ep-4> [<https://perma.cc/3THZ-2YSG>] (featuring Duke law professor Daniel Bowling III discussing the benefits of a growth mindset for law student happiness); Eduard Briceño & Dawn Young, *A Growth Mindset for Law School Success*, A.B.A.: STUDENT LAWYER (Sept. 12, 2017), <https://abaforlawstudents.com/2017/09/12/growth-mindset-law-school-success/> [<https://perma.cc/8NV2-5Y4F>].

faculty and administrators should be consistently mindful of their contributions here):

- Remind yourself of the strengths that brought you to this point in your life, especially around self-care, and do not abandon them. Much has been written about law school “sucking the soul” out of students, but it does not have to be that way, and you play a significant role in determining the way forward;
- Ask for assistance as early as possible. Seeking help at the first sign that something appears “off” is going to position you well to access the necessary resources. Counseling services and possible accommodations, should the need arise, can take time to process, but even a pep talk with your dean of students or someone at the law school whom you trust can make all the difference in the world. Also, do not assume for a second that you are the only student experiencing what you are feeling. Law students, often with Type A personalities, tend to mask their feelings and issues, believing it makes them weak or different from their classmates when many are actually experiencing the same emotions. Know that it is okay not to feel okay, and seeking help is a sign of strength;
- Be the change you want to see in well-being. Form a mental health alliance or support group. Advocate for well-being initiatives and agitate, if necessary, but also acknowledge what is in place. Doing so reaffirms that those trying to take positive steps are doing the right thing and will strengthen their own dedication. If (onsite) counseling is needed at your school, push for it;¹⁵⁸
- Pay attention to “syndromes” that may be affecting you and strive not to let them define your experience of law school:
 - Imposter syndrome: Feeling inadequate despite, or in the face of, apparent success.¹⁵⁹ You earned your seat in the class, and you belong here. Note that many individuals suffer from imposter syndrome, including some of your faculty and administrators; the question is what they do about it. Self-confidence comes with time and is often measured in smaller steps;¹⁶⁰ and
 - Duck syndrome: Struggling to handle the pressures of the competitive environment that law school can be, all the while presenting a game face (much like the duck below and above the

¹⁵⁸ See Confino, *supra* note 5, at 653–56.

¹⁵⁹ See Corkindale, *supra* note 138 (defining “imposter syndrome”).

¹⁶⁰ See Grenardo, *supra* note 138.

surface).¹⁶¹ While a little stress is good as it sparks adrenaline and keeps us on our toes, too much should prompt a visit to someone who can offer resources.

- Take personal responsibility for your actions. You are in control of the decisions you make around priorities, allocation of time, and even your assessment of your successes and your failures. Even when facing mental health or substance use challenges, which may feel outside your control, you get to choose if you want to seek help or go it alone. Seek help;
- Be a force and source of support for your classmates. The good that comes from helping another has its own reward and will support your own well-being immeasurably. If you are in recovery, consider confiding in your dean of students and asking if you can serve as a peer mentor; and
- Finally: Express self-compassion. Be kind to yourself. When looking ahead with anxiety and trepidation, take a minute to look back. Did you ever imagine you would have gotten to this point? Take a few minutes of appreciation and bask in what you have accomplished to date. Now take that second look ahead. Yeah, you got this. You belong here, and you deserve everything ahead of you. Now go get it.

E. Alumni

If you have read this far and are a law school graduate, you care about these issues. Reach back to your alma mater and ask what they are doing around student well-being. Offer to contribute to an event or program and to serve as a mentor, if appropriate. If your alma mater is not making strides toward well-being, letting them know how you feel, and perhaps withholding your giving, can be a powerful message.

F. Additional Areas for Consideration

Not to be overlooked in this Article are ongoing considerations in several areas that will also go a long way to providing the support that law students need to be well and to allow them to focus on the tasks at hand while in law school. Each of these areas, addressed more fully in the authors' "*Suffering in Silence*" article, should be given equal assessment and space for implementation at law schools seeking positive change.

¹⁶¹ Tiger Sun, *Duck Syndrome and a Culture of Misery*, STAN. DAILY (Jan. 31, 2018, 3:00 A.M.), <https://www.stanforddaily.com/2018/01/31/duck-syndrome-and-a-culture-of-misery/> [<https://perma.cc/CVY6-ZV9N>].

1. *Admissions.* — Consider the interplay between applicant statements regarding past substance use and mental health issues and the affirming role a dean of students or other law school official can play in reassuring the admitted student that he or she belongs at the law school, as well as that confidential conversation and resources if needed are available, without judgment.¹⁶²

2. *Curriculum.* — Law schools make a powerful statement when offering a course on mindfulness, well-being, or a related topic.¹⁶³ Students enrolled in said course receive a direct benefit, while other students who see the course as available receive yet another reminder that their law school is placing substantive effort (and resources) behind its commitment to well-being.

3. *State Bar and Board of Bar Examiners.* — Law school officials should continue to press state supreme courts to have their boards modify or remove invasive character and fitness questions that have the effect of deterring students from seeking help while in law school.¹⁶⁴ There has been movement in the last several years where states including New York, Indiana, and Iowa have removed questions that the Department of Justice previously deemed violative of the Americans with Disabilities Act.¹⁶⁵ As noted earlier, there was in the aggregate no-to-modest improvement among Survey respondents’ belief that keeping their substance use or mental problem hidden would help with bar admission.¹⁶⁶ There was, however, a range of percentages across participating law schools in response to this set of questions,¹⁶⁷ suggesting

¹⁶² See EISENBERG ET AL., *supra* note 7.

¹⁶³ See THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 39–40. See also the list assembled by the AALS Balance in Legal Education and the Mindfulness in Law Society of the nearly thirty law schools that have incorporated well-being courses into their curriculum (on file with authors).

¹⁶⁴ See THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 27. See also David Jaffe & Janet Stearns, *Conduct Yourselves Accordingly: Amending Bar Character and Fitness Questions to Promote Lawyer Well-Being*, 26(2) A.B.A.: PRO. LAW. (Jan. 22, 2020), https://www.americanbar.org/groups/professional_responsibility/publications/professional_lawyer/26/2/conduct-yourselves-accordingly-amending-bar-character-and-fitness-questions-promote-lawyer-wellbeing/ [https://perma.cc/2734-UMZU].

¹⁶⁵ See Press Release, Dep’t of Just. Off. Pub. Affs., Department of Justice Reaches Agreement with the Louisiana Supreme Court to Protect Bar Candidates with Disabilities (Aug. 15, 2014), <https://www.justice.gov/opa/pr/departement-justice-reaches-agreement-louisiana-supreme-court-protect-bar-candidates> [https://perma.cc/5HYR-CDVT].

¹⁶⁶ See *supra* section III.D.3.

¹⁶⁷ As noted above at the conclusion of section III.D.3, the 2021 SLSWB included two questions, one concerning a potential alcohol or substance use issue and one concerning a mental health issue, in which respondents were asked about whether their “chances of getting admitted to the bar are better if the problem is hidden.” As noted in the preceding discussion, 49% of respondents agreed with that statement with respect to alcohol or substance use issues while 39% agreed with that statement with respect to mental health issues. But for each context, there was a range of responses across law schools. For alcohol and substance use issues, the percentage who thought their “chances of getting admitted to the bar are better if the problem is hidden” ranged from 28% to 68%. For mental health issues, the percentage who thought their “chances of getting admitted to the bar are better if the problem is hidden” ranged from 21% to 55%.

that steps taken at some schools may be resulting in a greater number of students seeking assistance while in law school.¹⁶⁸

CONCLUSION

Ninety percent of study participants reported that helping people solve their problems was important in their motivation to attend law school, while 87% reported that feeling called to serve was important in their motivation to attend law school. Almost 50% reported that having experienced a trauma or injustice was important in their motivation for attending law school. We want our law students to succeed so that they can meet these goals and act on these motivations. However, if we continue to ask our law students to *suffer in silence* by not advocating for and supporting their advocacy for positive change, we shirk our own responsibilities in aiding the development of their best selves. While some law school administrators may maintain they are not responsible for the personal well-being of their students, this student development is very much a part of the professional formation now expected at every law school.¹⁶⁹ Accordingly, we need to continue to consider, implement, and model best practices of law student well-being, and provide the financial support to accomplish these goals and initiatives.

This broad range suggests some law schools are doing better than other law schools regarding messaging about the importance of seeking help.

¹⁶⁸ Although the identity of participating law schools remains confidential, there is a belief that several schools that had a bar examiner speak to the importance of receiving help in law school without fear of repercussions resulted in a lower percentage of respondents believing they are better off keeping problems hidden.

¹⁶⁹ See *supra* note 137 and accompanying text. See also THE PATH TO LAWYER WELL-BEING, *supra* note 5, at 1 (“To be a good lawyer, one has to be a healthy lawyer.”).