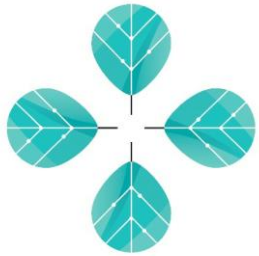
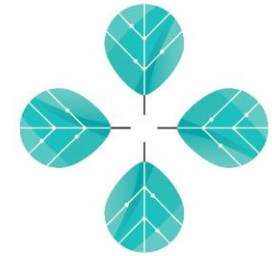


Positive Legal Education

Training the Next Generation of Lawyer Leaders to Thrive



THRIVE



THRIVE

Debra S Austin, JD, PhD



UNIVERSITY *of*
DENVER

STURM COLLEGE OF LAW

Law Student Wellbeing Research*

- Anxiety, Depression, Suicide Risk, Substance Use, & Mental Problems
 - Significant mental health decline during law school (Krieger 2002)
- 11,000 students
 - 43% binge drank in past 2 weeks
 - 36% of other graduate students
 - 17% depression
 - 7.7% of general population
 - 37% anxiety
 - 18.1 % of general population
 - 6.3% considered suicide in last 12 months
 - 3.9% of adults and 2.5% of age 18-25 in general population

* (Organ, Jaffe & Bender 2016)



- July 2014 - February 2015, 7 law student suicides and 1 law professor suicide

Law Student Wellbeing Research

- 2017: 886 Harvard law students
- Harvard Crimson described the results as **“grisly”**
 - 25% suffering from depression
 - 24.2% struggling with anxiety
 - 20.5% felt a heightened risk of suicide, and
 - 66% experienced new mental health challenges during law school



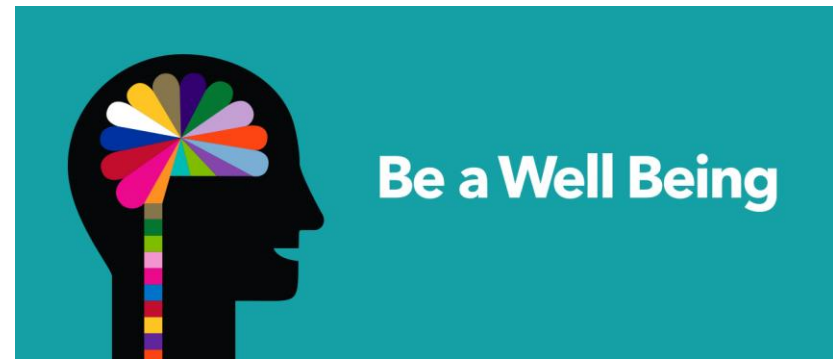
Lawyer Wellbeing Research

- Survey of 12,825 lawyers (Krill, Johnson & Albert 2016)
 - 23% of licensed, employed attorneys qualify as problem drinkers
 - 28% experience depression
 - 19% have anxiety
 - 23% are stressed
- Lawyers 4th in suicides (Flores & Arce 2014) & female lawyers 2nd behind law enforcement (CDC 2012)



ABA *The Path to Lawyer Well-being Report**

- Enhance the Effectiveness of Legal Organizations;
- Improve the Professional and Ethical Behavior of Lawyers; and
- Help Individual Lawyers Thrive in 6 Domains
 - **Physical:** Exercise, Diet, Sleep & Minimize Addictive Substances
 - **Emotional:** Manage Emotions to Support Mental Health, Achieve Goals & Inform Decision-making
 - **Intellectual:** Monitor Cognitive Well-being & Foster Ongoing Development
 - **Occupational:** Financial Stability, Satisfaction, Growth & Enrichment
 - **Social:** Connection, Belonging & Making Contribution
 - **Spiritual:** Meaning & Purpose



Positive Psychology Well-being Framework

(Thriving: PERMA Adler & Seligman 2016)

- Positive Emotions,
- Engagement,
- Healthy Relationships,
- Meaning,
- Achievement
 - Thrive across Multiple Domains
 - Hedonic WB (Feeling Good) & Eudaemonic WB (Functioning Well)
 - Absence of Crippling Elements: Depression, Anxiety, Anger, & Fear



Foundations for Practice Report

(Gerkman & Cornett, IAALS, 2016)

- Surveyed 24,137 Lawyers
- Lawyers Require & Legal Education Should Teach
 - Character Attributes
 - Collaboration Competencies
 - Self-Care & Self-Regulation Skills



PERMA Well-Being & *Foundations Report* Characteristics

- **Positive Emotions**

- Optimism & Energy
- Stress Management
- Handle Dissatisfaction Appropriately

- **Engagement**

- Intellectual Curiosity
- Resourcefulness
- Flexibility, Adaptability & Resilience
- Decision-making under Pressure

- **Achievement**

- Commitment to Excellence



PERMA Well-Being & *Foundations Report* Characteristics

• Positive Relationships

- Positive Professional Relationships
- Work Cooperatively & Collaboratively as Part of a Team
- Express Disagreement Thoughtfully and Respectfully
- Integrity, Courtesy, Respect, Tact & Diplomacy
- Tolerance, Sensitivity & Compassion
- Humility & Patience

• Meaning

- Strong Moral Compass
- Self-awareness (Strengths, Weaknesses, Boundaries, Preferences, Sphere of Control)
- Ownership, Passion for Work



Three Dimensions of Legal Education: Carnegie Report

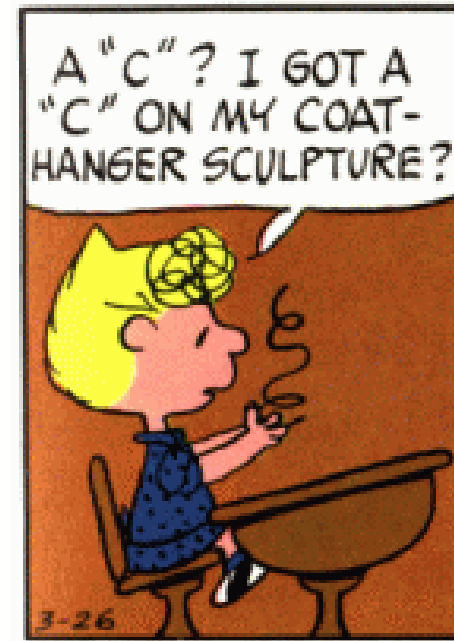
- The Carnegie Report describes three apprenticeships in legal education:
 - the **intellectual** apprenticeship, where students acquire a **knowledge base**;
 - the **practice** apprenticeship, where students learn **practical legal skills**; and
 - the **professional identity** apprenticeship, where students cultivate the **attitudes and values of the legal profession**.



Carnegie Report

(Sullivan 2007)

- **Professional Identity is Shaped by Socialization of Legal Education**
- Culture & Hidden Curriculum
 - Grade Curve
 - Competitive Classroom Climate and Law School Atmosphere
 - Encourages “a single-minded focus on competitive achievement” ³¹
- Hidden Curriculum may Cripple Legal Education ³¹⁻³²
- Students “are formed, in part, by the formal curriculum but also by the informal or ‘hidden’ curriculum of unexamined practices and interaction among faculty and students and of student life itself.” ²⁹



Competitive Education Culture

A Bigger Prize: How we can do Better than the Competition (2014)

Margaret Heffernan

- “Competition stokes panic and a desperate sense that every student is on his or her own, left to hack a solitary path through a dangerous educational jungle.”
- Creates a Social Structure that Features Stress, Corruption & Inequality
- **“What surprised me most about law school wasn’t how hard it was, but how lonely it was.”**
 - DU 3L – Fall 2018



Competition and Problem-Solving

- Collaborative Models of Problem-Solving & Organization Structure Outperform Competitive Models
- Competition is Antisocial because Individual Focus is on Self-Interest
- Competition
 - Kills Creativity
 - Narrows Perspective
 - Dampens Innovation
 - Intensifies Cheating and Corruption
 - Defeats Collective Progress



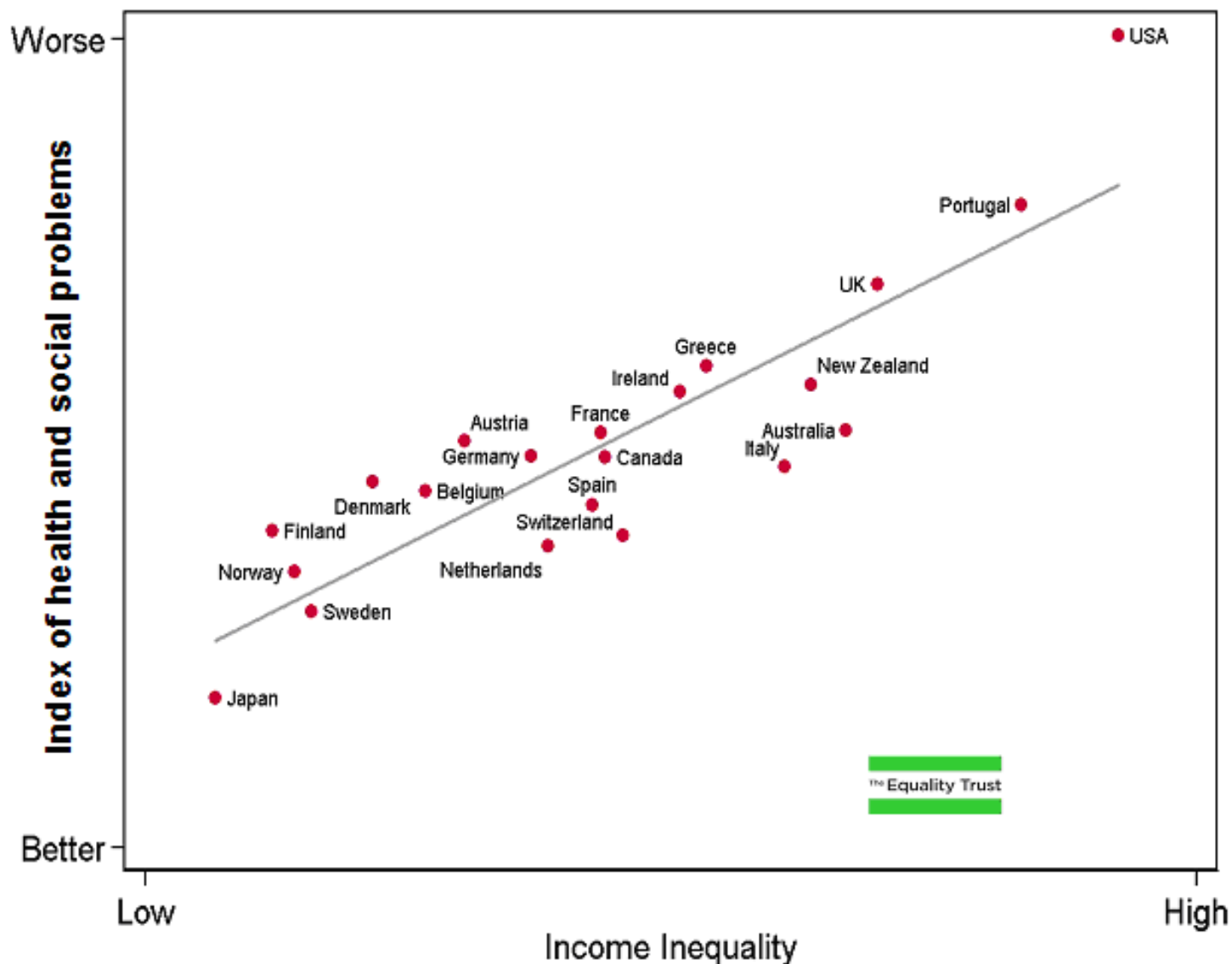
Replicate Social Hierarchy Zero-Sum Education Culture

- Cultures with Significant Hierarchies: the Wealth, Power & Privilege is Concentrated in a Few at the Top
- Empathy Deficit: Powerful People are Less Able to Take the Perspective of Others
- High Power People May Stereotype Others
- Power-Distance Index: the steepness of a hierarchy and the emotional distance between those who have power and those who do not
- The Higher the Power-Distance Score, the Steeper the Hierarchy
 - Russia 93
 - United States 40
 - Finland 33
 - Austria 11



Health and social problems are worse in more unequal countries

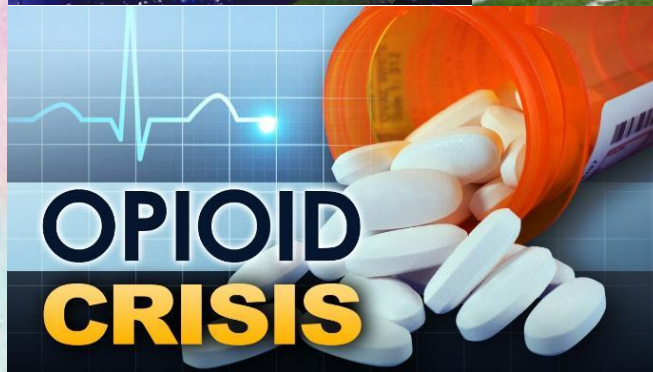
- Index of:
- Life expectancy
 - Math & Literacy
 - Infant mortality
 - Homicides
 - Imprisonment
 - Teenage births
 - Trust
 - Obesity
 - Mental illness – incl. drug & alcohol addiction
 - Social mobility



LAWYERS & LEADERS

- Legal System
- Government
- Politics
- Policy-Making
- Business & Finance
- Non-Profit Management
- News Media
- Entertainment
- Entrepreneurship
- Social Justice
- Philanthropy





Law Students

- Social, Connected, and Idealistic
- Value
 - Equity
 - Social Justice
 - Difference among People and Diversity in Groups
 - Sustainable Practices that will Safeguard the Earth
- Potential Weaknesses to Improve
 - Exposure to Diversity
 - Cultural Competency
 - Growth Mindset: a belief that temperament, aptitudes, and talents can be improved with practice and experience (opposite of Fixed Mindset: stable intelligence & personality)
 - Problem-solving and/or Conflict Resolution Skills
 - Agency Thinking: motivation to pursue a goal, and self-discipline, grit and resilience to attain it
 - Pathway Thinking: the capacity to craft multiple strategies to achieve goals



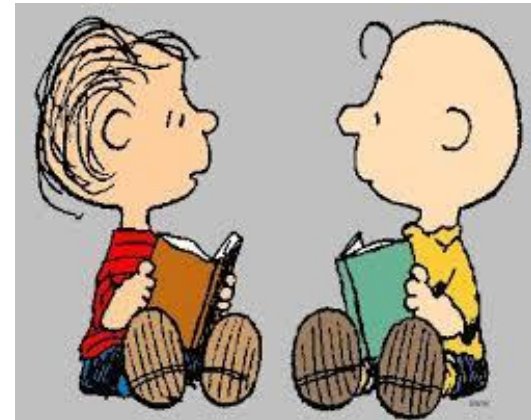
THERE'S NO HEAVIER BURDEN
THAN A GREAT POTENTIAL!

LINUS



Positive Legal Education Framework

- Engaged Learning
 - intrinsic motivation, goal-setting, time management, and meta-cognition
 - Academic Determination
 - strength identification, effort regulation, and environmental mastery
 - Positive Perspective
 - optimism, satisfaction, and well-being
 - Social Connectedness
 - positive relationships
 - Diverse Citizenship
 - openness, cultural curiosity, respect for multiple perspectives, and desire to contribute to the community
- Laurie A. Schreiner, *Positive Psychology and Higher Education*, in POSITIVE PSYCHOLOGY ON THE COLLEGE CAMPUS 8-11,13 (2015).



PLE: Engaged Learning

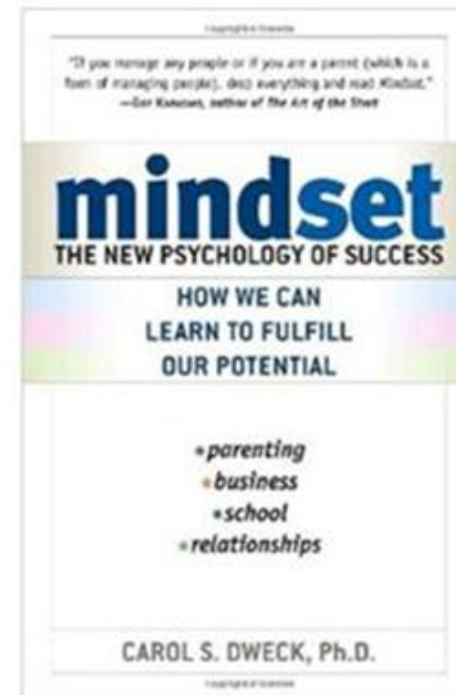
Intrinsic motivation, goal-setting, time management, and meta-cognition

Exercise 1: Assess Mindset



Train on the Research

- Stanford Psychology Professor Carol Dweck
- Mindset: The New Psychology of Success
- People with a Growth Mindset are More Successful



Growth Mindset

- Can expand aptitude, talents, and improve character with practice and experience
- Value learning & crave feedback
- Seek challenges, focus on improvement, develop passion for learning
- Motivated, resilient, and more successful in school and business



NEVER EVER
EVER
GIVE UP!

Fixed Mindset

- Intelligence & Personality Stable
- Galvanized by focus on GPA, rank, standardized tests
- May over-estimate abilities
- May dislike feedback (attack on key traits)
- School, work, relationships are zero-sum, where goal is proving oneself to look smart, gain acceptance, win



PLE: Academic Determination

Strength identification, effort regulation, and environmental mastery

Exercise 2: Strength Identification & Application

- **Watch**

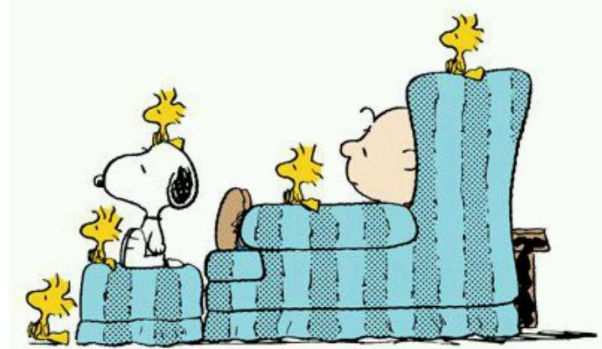
- Please watch The Science of Character/VIA Institute (8:04) at <https://www.youtube.com/watch?v=BdQRECe37K0&feature=youtu.be>

- **Assess**

- Please take the Values in Action Character Strengths Survey (15 minutes) at <http://www.viacharacter.org/www/Character-Strengths-Survey>.

- **Reflect: Signature Strengths**

- Your signature strengths are the qualities that are natural and energizing for you to express. It's almost like being with an old, trusted friend—you are being authentically *you*. Therefore, it's no surprise that finding more outlets and experiences to exert those strengths can make you happier. In fact, research studies have found that people who use 1 of their signature strengths in a new way each day for 1 week experience increases in happiness for 6 months! Describe one of your signature strengths. In what ways can you leverage this strength?



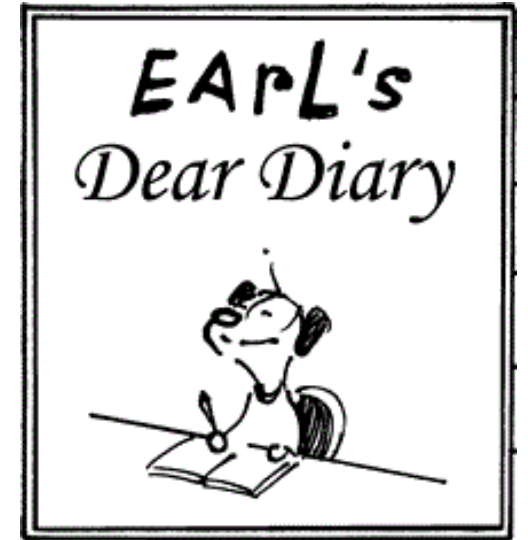
PLE: Positive Perspective

Optimism, satisfaction, and well-being

Exercise 3: Cultivate Optimism with Gratitude Practice

MARTIN E. P. SELIGMAN, FLOURISH: A VISIONARY NEW UNDERSTANDING OF HAPPINESS AND WELL-BEING (2011)

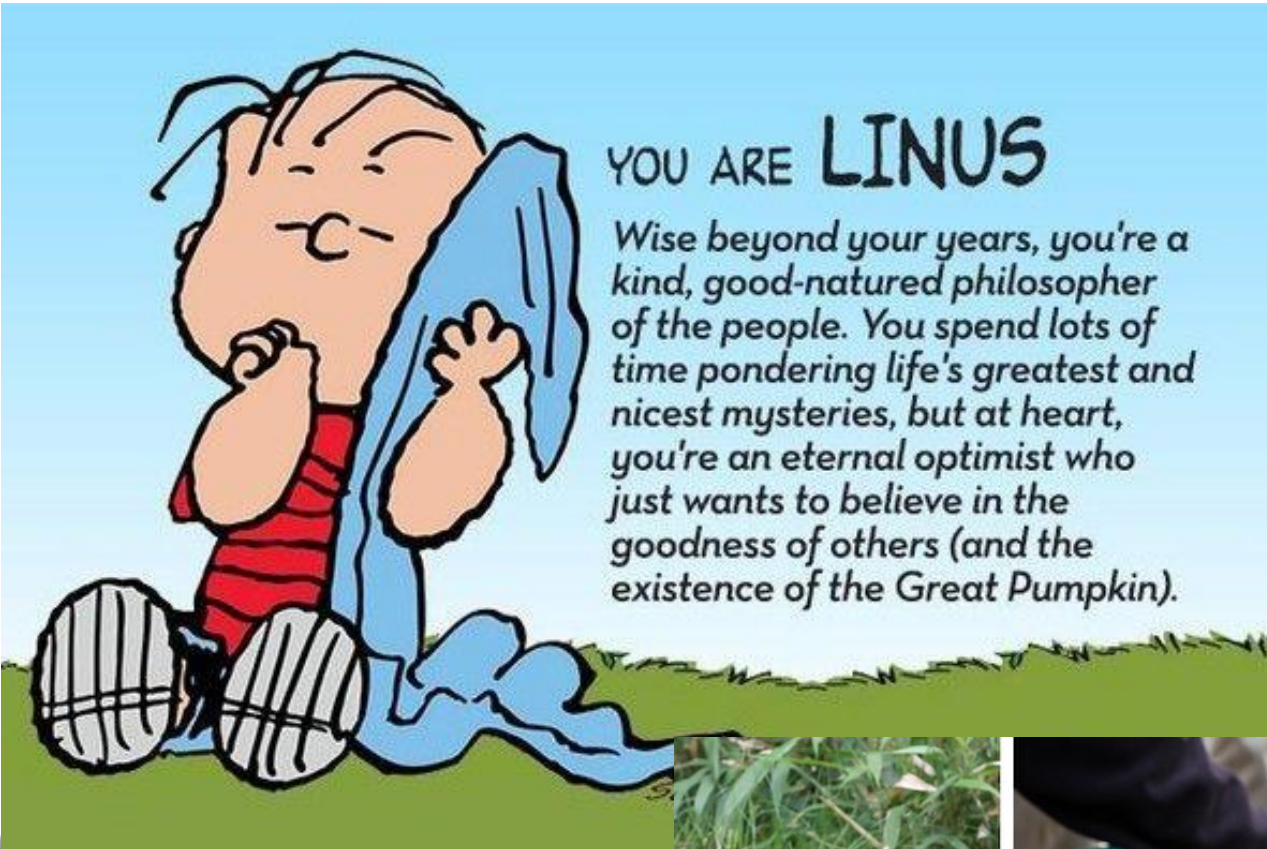
- Journal or Reflect on
 - Three Things I'm Grateful For
 - What Went Well and Why



- Doubling down on optimism: the mind can't tell the difference between actual experience and reflection

Shawn Achor, The Happiness Advantage (2010)

Notice Thin Slices of Joy

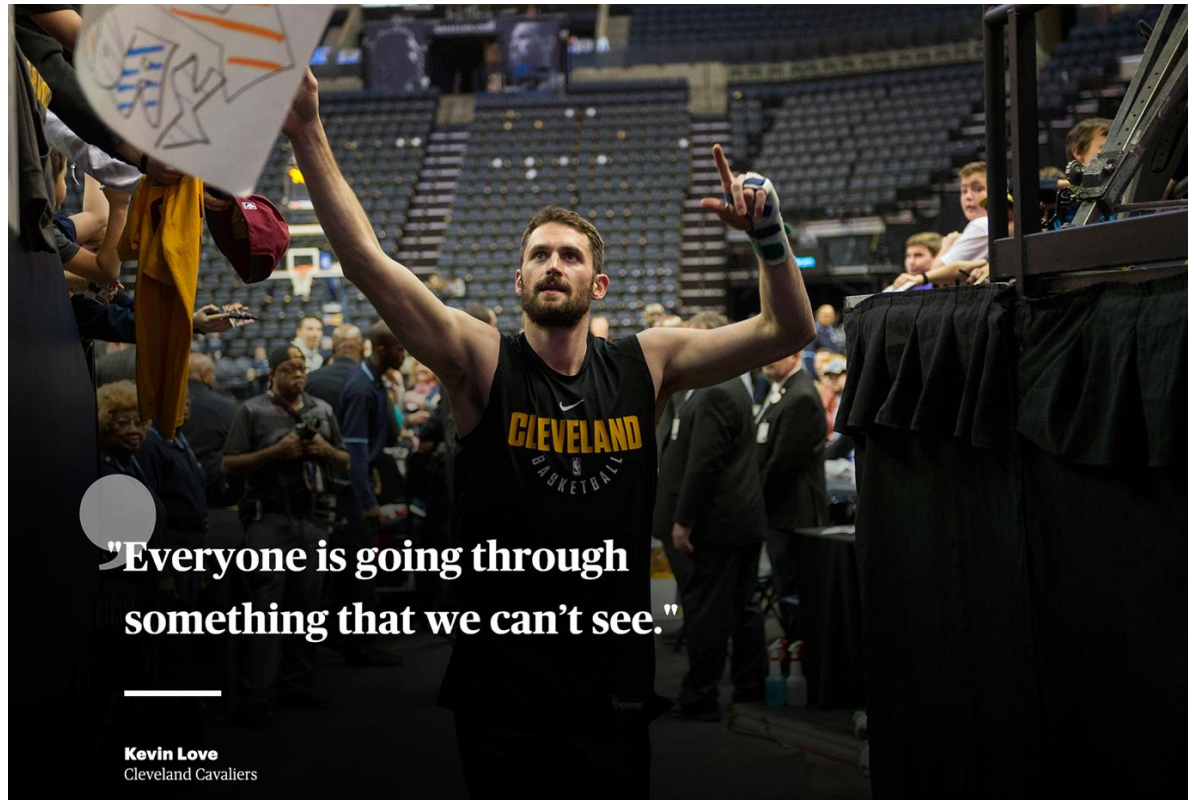


How can I enjoy today?



PLE: Social Connectedness

- Form strong bonds with and feel satisfied with, supported by, and connected to peers, faculty, and mentors
- **Read:** Everyone is Going Through Something We Can't See
 - The Players' Tribune at <https://www.theplayerstribune.com/en-us/articles/kevin-love-everyone-is-going-through-something>



"Everyone is going through something that we can't see."

Kevin Love
Cleveland Cavaliers

Exercise 4

Enhance Empathy with Loving-kindness Meditation

The ability to understand another's feelings and experiences



Think of Yourself	Think of a Loved One	Think of a Difficult Person	Think of All People or Beings
May I be happy May I be well May I be safe May I be peaceful & at ease	May you be happy May you be well May you be safe May you be peaceful & at ease	May you be happy May you be well May you be safe May you be peaceful & at ease	May you be happy May you be well May you be safe May you be peaceful & at ease

PLE: Diverse Citizenship

- Open to and curious about people who are different than you are
- Belief that diversity enhances relationships & strengthens groups
- Inclined to help others and contribute to community
- **Teach Leadership Skills in Legal Education**
 - Leadership for an Interconnected World
 - Socially-Intelligent Leadership Model
 - Social Aikido



Leadership for Interconnected World



- Strengthen Empathy for Marginalized Groups
- Develop an Understanding of Social Causes
 - Reduce bias and discrimination
 - Foster tolerance and understanding
- Appreciate Diversity, Scrutinize
 - Exposure: age, ethnicity, gender, sexual orientation, socioeconomic, religious
 - Cultural Awareness: Of one's own culture, views, assumptions & privileges
 - Perspective-taking: Understanding of experience life from a different perspective
 - Thoughts, feelings, desires, motivations, intentions
- Serve Others
 - Service brings to light stereotypes and significant social and institutional problems
- Amplify Social Justice Orientation
 - Discover Systemic Social Issues
 - Social Change is a Process that Requires Continuous Efforts
 - Inspires Action Plans for Change

THE POWER PARADOX

- Socially Intelligent Leadership Model
Social Intelligence, Responsibility, and Cooperation
- Successful Leaders
 - Dynamic, playful, outgoing, energetic, modest, and engaged
 - Possess the ability to understand and advance the goals of the others in the group
 - Negotiate conflicts, enforce group norms, and allocate resources fairly
 - Treat subordinates with respect, share power, generate camaraderie and trust

Social Aikido: Strategies for Problem-Solving

- Convert enemies into allies and commute hatred into good will
- Change objective from win-lose, zero-sum to win-win
- Shift from adversarial tactics focused on parties and positions to strategies for problem-solving



合

“Ai”

- harmonize, join, balance

氣

“Ki”

- life-energy, spirit

道

“Do”

- way, path, road

- Social Aikido Blueprint
 - Foster Relationships
 - Active Non-Judgmental Listening
 - Gratitude for a Willingness to Problem-Solve
 - Acknowledgment that the Problem Impacts All of Us
 - Suggestions as a Starting Point to Working on the Problem

Heather McGhee, JD – Social Aikido Master

Addresses a Question from a white male who admits being prejudiced against black males about what to do to be a better American



<https://www.youtube.com/watch?v=vYfXP6ceJNc> (4:00)

Pete Davidson Apologizes to Lt. Com. Dan Crenshaw Saturday Night Live



<https://www.youtube.com/watch?v=GKaakjMVtyE> (4:34)

Questions for Debra

Resources: www.debraaustin.com

- Course: Professionalism & Well-being Skills for the Effective Lawyer
- The Lawyer Brain: Transform your Well-being and Develop a Performance Edge
 - Book in Progress
- Positive Legal Education
 - Flourishing Law Students and Thriving Law Schools
- Killing Them Softly
 - Neuroscience Reveals how Brain Cells Die from Law School Stress and how Neural Self-Hacking can Optimize Cognitive Performance
- Drink Like Lawyer
 - The Neuroscience of Substance Use and its Impact on Cognitive Well
- Food for Thought
 - The Neuroscience of Nutrition to Fuel Cognitive Performance
- Emotion Regulation for Lawyers
 - A Mind is a Challenging Thing to Tame

