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# Survival Strategies for "Ordinary" Law Schools

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## Survival Strategies for “Ordinary” Law Schools

David Barnhizer

Most of us interested in the state of American legal education and the legal profession have heard all that is needed on the topics of the severity of the decline and various tragedies with which those preeminent institutions are afflicted. I know that over a lengthy period I have written all I either want or have to say on the “downside” of those conditions through a series of law review articles and on-line essays relating to various aspects of the “crisis”.<sup>1</sup> At this point I simply want to focus on solutions and realistic adjustments by setting out some of the strategic variables that can help law schools buffer or overcome some of the most serious effects of the changes law schools are experiencing. The overall legal profession is changing in dramatic ways with stunning rapidity driven by the shifting nature of the market for legal services, who is allowed to offer services in markets previously restricted to the organized profession and the impact of technology on how services are provided in terms of access to information and labor-saving applications that have replaced much of the grinding “drudge” and “gofer” work of the profession.

Here, however, I am focusing on approaches and actions that involve American law schools, particularly those in the middle range of competition that are not insulated from the worst of the trends through their high ranking and strong general reputations among applicants, lawyers, potential employers and public opinion. It is important to understand that for those “ordinary” law schools there is no single choice that could be effective or ideal as they engage in a struggle to adapt to and confront the changing environment. The specific conditions for creating and implementing effective strategies vary from moderate to harsh depending on the particular law school, and the applicant and employment markets to

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<sup>1</sup> See, e.g., David Barnhizer, “The Purposes and Methods of American Legal Education”, 36 *Journal of the Legal Profession* 1 (2011); “Redesigning the American Law School”, 2010 *Michigan St. L. Rev.* 249. “Abandoning an “Unethical” System of Legal Ethics”, 2012 *Michigan State L. Rev.* . “Lawyer regulation strategies—A personal view from the USA”, 17 *International Journal of the Legal Profession* 181 (November 2010). “Profession Deleted: Using Market and Liability Forces to Regulate the Very Ordinary Business of Law Practice for Profit,” 17 *Georgetown J. of Legal Ethics* (2004). “On The Make’: Campaign Funding and the Corrupting of the American Judiciary,” 50 *Catholic Law Review* 361 (2001). “The Virtue of Ordered Conflict: A Defense of the Adversary System,” 79 *Nebraska Law Review* 657 (2000); “Princes of Darkness and Angels of Light: The Soul of the American Lawyer,” 14 *Notre Dame Journal of Law, Ethics & Public Policy* 371 (2000); “Of Rat Time and Terminators,” 45 *J. Legal Ed.* 49 (1995); “Freedom to Do What? Institutional Neutrality, Academic Freedom and Academic Responsibility,” 43 *J. Legal. Ed.* 346 (1993); “The Justice Mission of American Law Schools,” 40 *Cleveland St. L. Rev.* 285 (1992); “The Purposes of the University in the First Quarter of the Twenty-first Century,” 22 *Seton Hall L. Rev.* 1124 (1992); “The University Ideal and Clinical Legal Education,” 35 *New York L.J.* 87 (1990); David Barnhizer, “The University Ideal and the American Law School,” 42 *Rutgers L. Rev.* 109 (1989), and David Barnhizer, “The Revolution in American Law Schools,” 37 *Cleveland St. L. Rev.* 227 (1989); “Prophets, Priests and Power Blockers: Three Fundamental Roles of Judges and Legal Scholars in America,” 50 *Pitts. L. Rev.* 127 (1988); “The Clinical Method of Legal Instruction: Its Theory and Implementation,” 30 *J. of Legal Education* 67 (1979); “Clinical Education at the Crossroads: The Need for Direction,” 1977 *B.Y.U. Law Rev.* 1025. “The Role of Practical Legal Education in the University Law School,” in *PERSPECTIVES ON LEGAL EDUCATION* 278 (N. Redlich ed. 1979); David Barnhizer. 2013. “Practice Ready” Law Graduates”, [http://works.bepress.com/david\\_barnhizer/83](http://works.bepress.com/david_barnhizer/83); David Barnhizer. 2012. “Ten Elements of “Real” Ethics in the Practice of Law (and Life)”. [http://works.bepress.com/david\\_barnhizer/17](http://works.bepress.com/david_barnhizer/17); David Barnhizer. 2010. “The Illusion of Creative Scholarship in American Universities and Law Schools”, [http://works.bepress.com/david\\_barnhizer/11](http://works.bepress.com/david_barnhizer/11). BARNHIZER, DAVID R., “GOLEM, ‘GOLLUM’, GONE: THE LOST HONOR OF THE LEGAL PROFESSION” (JANUARY 3, 2011). CLEVELAND-MARSHALL LEGAL STUDIES PAPER NO. 11-203. SSRN: <HTTP://SSRN.COM/ABSTRACT=1734412>.

which the school has access. These are further influenced positively or negatively by reputational and programmatic realities and opportunities, by sources and scope of funding and by the degree of competition with other law schools in the specific markets served by the law school.

Some factors are more important than others. It is critical, for example, to differentiate between the large-scale macro considerations dictating important institutional and structural actions—such as American Bar Association accreditation rules, state Supreme Court governance, bar examination requirements, total potential applicants on a national level, financial costs to law students and the declining earnings potential of lawyers--and the micro-factors impacting on specific law schools. This is because it is in the micro-factors where individual law schools can identify and implement strategies and develop individualized tactics that are within their ability to control. The larger-scale issues are obviously of significance but they require concerted collaboration among law schools and other institutional forces to create system-wide changes.

This means that while large-scale or macro-systemic factors have important design impacts for law schools, context specific micro-system factors make up the options and conditions that must and can be taken account of by individual law schools. This is both in terms of the limits such conditions impose on strategic adaptation for specific law schools and the opportunities they can provide for a law school whose administration and faculty possess the insights required to design effective strategic plans of action consistent with an institution's realities and competitive and operational contexts.

The micro-factors depend on considerations such as a particular school's national status or lack thereof, geographic location, applicant pool and employment markets served, public or private funding sources, and the number of competing institutions in the specific territorial and employment niche markets. For "ordinary" law schools there is an important distinction between "territorial" market niches based on the geographical area a law school primarily serves and the "employment territory" represented by the zone to which a particular law school's graduates have legitimate access. This means it is necessary to examine the extent to which "foreign" law schools located outside a law school's "geographic turf" have access to employment niches to the extent that the schools located within a geographic territory—as opposed to an employment territory—are disadvantaged.

A simple way to understand this is in the "Big Law" area of employment. It is clear that "national" law schools such as Harvard have historically possessed an advantage over "ordinary" law schools located physically within that law school's "local" employment territory. This does not mean that the "ordinary" law schools are foreclosed completely from that market but that their students are at a disadvantage in competing for those positions. Of course there is a converse dynamic operating in many of those situations in which the "ordinary" law schools are more successful for a variety of reasons at placing their graduates in smaller law firms, local government and business.

The competitive condition under which a law school such as my former employer Cleveland State University operates is radically different from those found at Harvard, Yale, Syracuse, Akron, Florida State, Elon, Chicago or Phoenix. There are common factors that influence and even dictate the design and function of all US law schools. But even with a degree of generalized homogeneity each institution represents a different competitive entity. This is because even though curricula are nearly identical and faculty largely congruent in backgrounds and methods they are educating students for different entry and “price points” and inhabit locational and functional contexts that are as distinct as they are similar.

When we are addressing different competitive conditions for law schools one does not have to consider a wide range of metrics. One of the most dominant, even though it has almost nothing to do with actual educational quality, is represented by the *US News & World Report's* annual ranking of American law schools. The fact is that the reputations of law schools have very little to do with differences in the quality of education and much to do with the perceived quality of the “raw material” of the students who attend those law schools.

Nor is there any real difference that anyone can show to demonstrate that the quality of teaching going on at law schools considered among the elite is superior to that found at law schools thought of as ordinary. The assumption of higher quality of the “delivered” educational experience is based on assumption, historical bias relative to “fancy” universities versus “lesser” institutions, and the perceived quality of the students who matriculate at the schools. It is also based on where the graduates end up being employed. But this in itself is in some ways also a function of “like-begetting-like” where employed graduates of certain law schools prefer to hire new graduates of similar law schools with the result that there is a systemic bias toward the most prestigious employers preferring to “reproduce” themselves by hiring people with whom they feel most comfortable, i.e., ones from law schools considered elite. Given that such biases permeate the perception of the law school world and that from which applicants are drawn it becomes clear that the “strategic options” available to “ordinary” law schools are limited. This means that a law school’s survival may depend upon a ruthlessly practical and honest analysis of the kind few law faculty are prepared to do.

Schools such as Harvard and Yale will continue to exist without any real difficulty but will be affected by issues of demand, the incredible costs of attending such institutions, and applicant quality. They will experience a qualitative slump from the perspective of student credentials and given their prohibitive cost, some decrease in size. This relates to the fact that the competitive future of the “elite” law schools cannot be disconnected from the fact that the highest paying jobs in “Big Law” are drying up for new graduates. This fact is known, and there are few other options for earnings at the level required to pay off a \$150,000-\$200,000 educational debt of the kind required to attend those institutions. This ensures that a large law school such as Harvard will need to reduce enrollment. Smaller and more specialized institutions such as Yale in which all accepted applicants strive to change the world, or become US Senators or President will dip lower in the credentials of its applicant pool. Such schools are, however, buffered by their large endowments, unlike

virtually all other law schools in America that lack large investment income and are already maxed out in fundraising capability at a time where members of the legal profession from which they can seek contributions are themselves experiencing competitive challenges and declining revenues.

Even this will have competitive implications. The traditional elites representing perhaps six law schools considered truly national (Harvard, Yale, Stanford, Chicago, Columbia, and perhaps Michigan) along with others that are quasi-national or regionally dominant (Georgetown, NYU, Texas, Northwestern, Emory, USC, Pennsylvania, Cornell) will siphon off applicants with credentials of the kind that had earned admission to other well-regarded but lower ranked law schools. This will force those institutions to reduce their size or adjust the quality of admitted students downward. In that regard, the “rich don’t get richer” but the “poor definitely get poorer”.

Other generally respected law schools such as Northwestern, Georgetown, Notre Dame, and New York University will feel some substantial effects from the competitive conditions due to factors that include high tuition and associated cost levels but will continue to do considerably better than the “ordinary” law schools. They can expect, however, to find that a substantial number of their most desirable applicants are drawn off to the top five or ten law schools that have reduced their criteria to maintain class size and revenues. This will result in the most highly regarded “flagship” law schools and well-regarded schools ranked below the most elite institutions to themselves admit students who would have been attending schools in the next reputational tier down prior to the precipitous drop in applicants generally and in the most highly credentialed applicants.

Beyond the first tier of nationally and internationally prestigious law schools is another tier that is largely insulated from the threat of changes that could be so severe as to cause a law school to shrink away to a dysfunctional scale or even close. These others are made up of regional and state-dominant “flagship” law schools such as Ohio State, New Mexico, Iowa, Illinois, Texas, Colorado, Michigan, Virginia and Oregon. For law schools that are the sole or clearly the most dominant “flagship” law school in a state there can be some expectation that strong support for “survival” policies will exist to a reasonably substantial extent (New Mexico, Colorado, Idaho, Wyoming, Oregon, Washington, Arizona, Louisiana, Oklahoma, Arkansas, Minnesota, Maine, West Virginia, Tennessee, Ohio, Indiana, Iowa, Kentucky, Virginia, South Carolina, Georgia, Mississippi, Alabama, Illinois, Missouri, Kansas, Nebraska). This is the result of the states’ political cultures, numbers of lawyers with degrees from those law schools, and prestige of having a “flagship” law school.

The existence of a “flagship” law school in a state in no way insulates other public and private law schools in those states from having serious problems, collapsing resources, plummeting enrollments, severe competitive disadvantages and even closures. It most likely even endangers other law schools because if cuts need to be made it appears obvious that the most prestigious or core law school in a state is likely to receive the greatest support. Nor does it ensure that even “flagship” law schools in low population states with limited numbers of legal employment positions will be able to maintain economies of scale

and institutional quality. For much of the US the stark fact is that lawyer markets are saturated, fewer lawyers are willing or able to retire due to economic uncertainty, technology has created significant efficiencies in law practice and the delivery of legal services, and in many locations there will not be a realistic probability that a law school's "output" as measured by the number of annual graduates can be absorbed by the particular area's need or demand for new lawyers.

### **The "Bottom Line"**

Although the law schools in the first three categories will be subject to challenging factors, the law schools that are qualitatively or territorially disadvantaged are under the most dramatic pressures. These law schools are under the greatest pressure because they have neither the power of a strong reputation nor a unique identity sufficient to insulate them from the forces that are now in play. Ohio, for example, has nine law schools. Ohio State is the "flagship" law school in the area and it is only a strong regional law school, not a member of the national "elite". All other law schools in the geographic territory, including those in close proximity in Pennsylvania, New York, Michigan, Indiana and Kentucky are at best "ordinary" institutions and several are even below that level of perceived quality.

Ohio is bordered by states that also have law schools producing graduates who will compete for "Ohio's" law jobs. These law schools include Wayne State, Michigan State, Detroit Mercy, SUNY Buffalo, Pittsburgh, Duquesne, West Virginia, Indianapolis and Northern Kentucky. Not counting the "national" law schools whose graduates absorb a substantial proportion of Ohio's "Big Law" jobs, it is reasonable to conclude that somewhere between 18-20 "ordinary" law schools are competing to place their graduates in Ohio's lawyer employment markets. Unfortunately, that market is static or even declining. It is not irrational to project that as many as four or five of Ohio's law schools will have serious competitive difficulties (they already are), and financial crises to the point of closure.

The economic forces compelling changes in legal education are coming from every direction and are irresistible. Law schools are finding they share the need with other industries for a combination of actions that include downsizing of staff due to reduced student enrollment and development of alternative educational offerings other than those offered as part of the traditional law degree. Among the greatest sources of pressure will be budget cutting necessitated by mandated reduction demands from parent universities and state governments, along with lower revenues from fewer students.

Outside the schools traditionally classed as the elite institutions, many law schools are entering an era in which their student bodies and faculties must shrink, where job security is reduced, life-tenure is questioned and even terminated, and the level of acceptable productivity takes on a different meaning than showing up twice a week for classes and producing an occasional article every two or three years that is read only by a handful of academics who already agree with the author.

As stark as the situation must seem, there are competitive options that many “ordinary” law schools can pursue to enhance their odds of survival. But some truly marginal law schools should close. Some law schools located in a fully saturated employment market that cannot attract a realistic number of law students to support the provision of a quality legal education should close. Some of the “new” law schools, whether for profit or an effort by a university to “get on the bandwagon” of an expanding “gravy train” represented by law school enrollments of a decade ago should take a deep breath and shut their doors.

### **Some Strategic and Tactical Possibilities**

- *Removing the American Bar Association’s accreditation role.* The ABA is a trade association whose first and primary function is to protect the economic interests of the legal profession. It has no business being in control of the “franchising” of law schools and the defining of what must be contained in a curriculum, how long it must take to complete a legal education including counting the minutes required to be in attendance. There is a need to create a new mechanism for legal education and while the ABA might have some input into its activity as an interested party it should not be the main accrediting agency for legal education in America.
- *Nationalizing the Right to Offer Legal Services.* State-by-state admission to law practice is little more than a market protection system designed (or with the predictable consequence) of protecting an individual state’s lawyers from competition by impeding the free movement of legal services in what has now clearly become a national market. Removing a state supreme court’s power to determine who is allowed to practice in its state opens up the legal services market from the perspective of the free flow of commerce and removes the most important barriers for law schools across state boundaries who may be interested in merging or developing significant cooperative programs. The state-by-state admission requirement may have been legitimate in an environment without the ability to communicate, travel, monitor and share information widely but is now nothing more than an economic barrier.
- *Eliminating the Bar Examination for Law Graduates who achieve a Specified GPA in the General Core Curriculum.*
- *Eliminating the Bar Examination Requirement in Specified Subjects for Students Who Receive Grades in that Subject Equal to an A-minus or Higher.*
- *Designing local and regional consortia among law schools.* This is aimed at reducing costs, combining resources and focusing on specific needs in that area. It not only reduces costs but can also increase the ability to offer innovative programs since each member of the consortium can focus on a unique area that can be shared among the members’ students. There have been an increasing number of administrative costs and functions borne by individual law schools that have driven up the staffing needs and expenses for operating a law school. As student size

shrinks these categories of administrative and teaching staffing represent fixed costs that are much more difficult to sustain with the loss of adequate institutional scale reflected by declining revenues.

- *Implementing Distance Learning Options.* This can involve several approaches because “distance learning” is an opportunity, not a method. It also possesses significant “upsides” as well as “downsides” and almost certainly should not be the sole path allowed for individuals interested in being admitted to the right to practice law generally. The simplest approach is that the teacher still presents a “live” performance that students can view and even interact with it from remote locations as it occurs. But just as in the traditional classroom the presentation and observance occur simultaneously. One key aspect of this approach is that there are few limits on the numbers of students. Obviously this approach could be used to have a single law teacher instruct large numbers of students, eliminating the need to have multiple sections offered. A result is that fewer teachers are required to provide coverage. Slightly different is the situation in which the presentation is recorded and made available for viewing (or computer-based interaction) by students at their convenience. This eliminates the opportunity for immediate interaction, but if needed even that limitation could be dealt with by having students submit questions online with responses going to a group or subgroup as well as having responses to individual questions by the teacher or a teaching assistant who could even be a talented law student who had previously excelled in the particular course. This approach seems particularly legitimate in courses that are aimed primarily or entirely at “information transfer”.
- *Online Closed-End Courses shared between several law schools.* Collaborations involving the sharing of teachers between law schools through on-line strategies could allow schools to reduce costs while concentrating limited resources on areas of greatest need and specialization. Nor would it be limited by geographic proximity. A law school in Cleveland, for example, could partner in creating shared on-line courses with one in Michigan or Washington, DC without being concerned that it would disadvantage any involved law school due to a lack of competition for the same applicants.
- *Creating an Attractive Specialized Market Niche.* This obviously includes such general niches as dispute resolution, trial and transactions. But it also includes possibilities such as health, medicine, insurance, small-scale practice concentrations, etc. The market niche approach is aimed at attracting applicants and serving the needs of the school’s primary employers of law graduates. At Cleveland State, for example, the Cleveland Clinic and University Hospitals systems are major employers for the region. Among the questions to be asked are what such employers need and what is the realistic scale of the future employment markets associated with the identifiable range of employers involved in the health care system, including holding it to accountability for its inadequacies.



- *Improving Job Marketing in Target Areas.* There is limited ability to alter the traditional markets, particularly in a time where the employment world has changed dramatically (and perhaps permanently) and the competition for jobs is far more intense.
- *Altering Institutional Scale.* It isn't a simple matter of large versus small. Although there is an issue of the minimum size required to provide a quality education there is also the question of the size of institutions that can offer at least a general legal education. In downsizing student enrollment to reflect the ability to maintain a student enrollment base of substantial quality while recognizing the reality of the saturated lawyer market in the regions most relevant to employment of a specific law school's graduates a law school risks not being able to generate the financial resources needed to provide the desired quality of education.
- *Downsizing Traditional Tenure-Track Faculty.* This is a cost-cutting move aimed at the reality of smaller law schools with limited financial resources and more restricted enrollments. At many "ordinary" law schools this approach has been going on for some time largely through attrition as faculty retire or move to other law schools. Given the dramatic nature of the decline in applicants, law school size and reduced revenues it can be expected that tenure-track faculty—including more senior and therefore more expensive faculty—will find increased pressures to retire or even suffer terminal layoffs.
- *Using Shorter Term Contractual Faculty.* This is another way to cut costs while presumably attracting a cadre of lawyers and judges who may have a more focused understanding of law practice and critical social issues as played out in the system of applied law. This contrasts with the limited professional experience base of many "traditional" law faculty members who not only enter law teaching with minimal experience but become increasingly distant from their connection with the world of law practice as they are immersed in the culture of legal academia. There is a "double whammy" at play here for many law teachers who had very little practical experience prior to entering teaching and soon find their knowledge and experience increasingly obsolete and disconnected from the professional world for which they are preparing law students.
- *Using More Adjunct Faculty.* This is not only a cost cutting move but a means of increased programmatic flexibility and adaptation. A potential side benefit is that if a law school created team-teaching courses in which a traditional faculty member and an adjunct taught a course together for perhaps two years, that experience would go far to help the traditional teacher update and improve his or her "practice ready" knowledge. It also provides legitimate learning for the practitioner serving in the role of adjunct teacher. In the course I taught in *Trial Advocacy* I used adjuncts as a regular part of the course and we mutually enriched each other in a symbiotic relationship. My adjuncts remarked more than once that when they first came into the classroom they thought since they were experienced trial lawyers

they knew all the important things about the process and themselves. At the end, however, they explained how much they had learned through the processes of critique, observation and teaching and that the process provided them a healthy respect for what was required to be an excellent teacher. I similarly responded that I had been enriched by what I learned from them.

- *Eliminating Esoteric Courses.* This is a means of focusing educational attention more on what lawyers actually do as opposed to what current law faculty members want to teach. Students under the current system are being asked to carry the burden of funding faculty research or subject matter *esoterica* that in many instances make no contribution to their educational experience. Many seminars in such areas of faculty interest attract very small numbers of students to the point that they are contrary to a law school's primary mission.
- *Increasing Faculty Workload.* As resources shrink numerous law schools will use this approach as a means of concentrating on the mission of teaching. This will also likely lead to a reduction of law faculty scholarship.
- *Eliminating Tenure.* It is unlikely that tenure will be eliminated across the board in all law schools but it is probable that tenured status will disappear for many teaching positions in some schools and entirely in others. This will create a lower cost and more flexible institutional model that can be adjusted more easily to reflect the financial realities of declining enrollments and fixed and reduced budgets.
- *Eliminating Publication Requirements.* Even though the law schools are accredited to educate aspirants who intend to engage in the practice of law a significant proportion of academic legal research consists of a small group of faculty committed to a particular perspective speaking only to "the choir" of others who already share their views. There are some "real scholars" in American law schools but the numbers are not great relative to the population of law teachers. In the past several years the ABA has begun to withdraw to the point of elimination its long-standing accreditation requirements relating to the necessity of a law school supporting legal scholarship.
- *Altering what is considered essential to a law school library.* This process is already far along with libraries becoming electronically based information centers considerably more than book repositories.
- *Reducing Tuition.* This can be done due to cuts in faculty and staff, as well as library budgets. But if applications drop and law schools reduce student bodies at the same time that states are deciding they cannot afford to subsidize law students due to lack of need for more lawyers and demand by applicants, then reducing tuition can end up as a "death spiral". There are public schools (Michigan, Virginia and Michigan State) that charge private tuition and do not depend on state subsidies. This may be one strategy for a number of publicly funded law schools. There are also law

schools that are now reducing out-of-state tuition to in-state levels (Cincinnati) or cutting tuition for students who are residents of the state in which the law school is located (Iowa and Penn State).

- *Creating Tuition Forgiveness Programs for Graduates' Public Service.* This is a nod toward a whole additional subject, the way to use technology and the new market pressures to establish legal services for the middle class in a way that make a decent living possible for young lawyers and provides better access to the legal system for people who need help but can't afford it. This may expand the concept of who is included in the idea of "public service" in a Rule of Law system where access to lawyers and competent service is beyond most peoples' financial capacity.
- *Accessing New Applicant Markets.* This can be done by such things as creating 3/3 programs with early law school enrollment for university students prior to graduation. This is likely to work better with negotiated agreements with specific universities so that students who take three years in an undergraduate curriculum can receive a degree after completing the first year of law school. There are issues with the finances, however, since presumably this would mean universities would not be receiving the fourth year of tuition they now receive. One approach for law schools affiliated with a specific university (or university system) would be to dedicate a specific number of slots for students from that university, whether it is done as part of a 3/3 program or 4/3 as currently exists. Another approach is to design programs for disciplines in which there is either a continuing education or enhanced degree requirement or incentive such as high school teaching.
- *Creating New Types of Degree Programs.* This offers more hope than some other options because many people want to possess legal knowledge even if they don't want to practice law in the traditional sense. This could mean Corporate Law degrees, Health, Real Estate, Insurance or even Transactional or Alternative Dispute Resolution degrees focused on mediation and arbitration. Many of these could be accomplished in a year to 18 months at significantly lower expense and could open up new markets for law schools. In highly specialized areas of law practice there would be no need for individuals to take a complete general course of study in law as now occurs. They could be ready to practice in a specific field in as little as 18 months and remain eligible to complete additional legal training at a law school if they wished to ultimately receive a "general" law degree.
- *Possibly reducing the initial formal period spent in law school to two years.* Law school does not have to be delivered in a compressed integrated "package" completed in a three or four year period. It is quite possible to offer an abbreviated degree that allows those who complete the requirements the right to engage in some forms of law practice. Along with this could go various kinds of additional study and/or certification programs for which the successful completion could expand the types of law practice allowed the lawyer whenever completed. Part of

this could be a qualitative upgrade of the CLE offerings to make them more extensive and sophisticated than currently found in the “CLE mills” that have arisen.

- *Designing more sophisticated skills-oriented interactive computer simulations.* There already are some programs in these areas in which the law students perform professional tasks including analysis, fact development, case and dispute diagnosis, interviewing, negotiation, trial and administrative presentations and so forth. More such programs can be designed to expand a law student’s exposure to basic skills and reduce the cost of a legal education. Of course, a sophisticated set of computer-based simulations could supplant a portion of the traditional information exchange face-to-face teaching engaged in by flesh-and-blood law professors. The reality is that law faculty members can either learn how to utilize such technologies or wither away with some rapidity in many law schools. I love tradition, but “business-as-usual” simply does not work in a world filled with less expensive and often more effective options. This applies with great force in contexts involving students whose perspectives and learning modes are of a quite different nature than traditional law teachers.
- *Development of “Holographic” Interactive Teaching interfaced with advanced computer software.*
- *Law Practice “Incubators”.* As several law schools are now doing, including Cleveland State, one innovative approach is to create an “incubator” in the law school. This involves creating an internal “firm” in which new graduates engage in law practice in ways that enhance their professional skill development. Given the concerns in the legal profession about a lack of adequate training and jobs for lawyers, and the fact that many new graduates are setting up solo practices because they lack alternatives, the “incubator” can be a device to enrich the lives of new graduates while expanding the availability of legal services. It is possible that such programs can also increase law students’ access to the complex dynamics of the practice of law at important points in their educational experience. The question with such approaches is cost effectiveness and what happens when the new lawyer’s period of residency is final. In the clinical program at Cleveland State that I developed and directed we created a small law firm within the law school, complete with a substantial office suite designed for that purpose. This included five lawyer/law professors, law office staff, and an average of 32 law students per term in a clinical experience for which the students received half a term’s credit for the first academic period that included a seminar, and had a full-immersion clinical term following that for a combined total of 18 credit hours.
- *Variable Niche “Incubators”.* The incubators at the moment are mainly aimed at preparing students and recent graduates for solo practice. There are other approaches in which the incubator strategy could be used for specialized areas of law practice, including criminal law, tax, intellectual property, real estate transactions, and dispute resolution.

- *Apprenticeships Reborn.* Post-graduation subsidized placements of a law school's students with operating public interest and governmental institutions could offer a combination of professional experience and networking.
- *"Virtual" Law Schools.* This is the on-line "Concord" law school mechanism. It is one thing to selectively allow students to complete some courses on-line and another to use this approach for a complete legal education. I say this because I confess to being a teacher who finds some intellectual benefit in face-to-face interaction and human feedback not mediated through electronic communications. While it may be the wave of the future to allow some substantial on-line substitutions for traditional classroom experiences this in no way means that a complete education in a discipline centered on humans and their needs and challenges ever ought to be converted to pixels and sound bites.

The comments above are offered in the spirit of a sort of "free-associative" brainstorming about what "ordinary" law schools can do to try to work through the challenges they are facing. Central to the analysis is the need to be honest about what is occurring and realistic about possible strategies to buffer the effects while remaining strong.