The St. Thomas Effect: Law School Mission and the Formation of Professional Identity

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by Jennifer L. Wright

Abstract

The legal profession has long been criticized for declining standards of professionalism. Recent studies have pointed to the crucial role of legal education in forming the professional identity of lawyers. Law schools must take seriously their duty to intentionally and thoughtfully shape their students’ sense of what it means to be a lawyer and of how their professional identities will align and coexist with their other personal and ethical commitments. In this article, I examine a case study of one law school, the University of St. Thomas School of Law, whose self-proclaimed raison d’etre is to produce a “different kind of lawyer.” Using qualitative research methods, I define the particular content of this intended “St. Thomas Effect”, and lay out a further research program to determine whether this law school is in fact achieving its mission in the formation of its graduates. I offer this effort to define and measure the goals of intentional professional formation as a model which other law schools may find useful.

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I. The Mission of Law Schools

What is the purpose and proper function of a law school? Can the nature of the law school experience substantially affect the ethical, moral and professional identity of the lawyers that emerge from that experience? How can the effect of law school training be defined and measured? How can law schools determine what kind of lawyers they want to produce? Should this kind of professional and moral shaping be the responsibility of law schools generally?

I argue that law schools can, should and must devote thought and effort to the question of the professional and ethical formation and identity of their graduates. Social observers have lamented for decades that professionalism is on the decline in our society, that the sense of an obligation to the good of the profession as well as to the common good is being entirely replaced by a single-focus dedication to the bottom line. Nowhere has this problem been more fully discussed than in the legal profession. However, I believe that we are currently seeing a serious acceleration of this trend, and the potential for the final loss of the notion of a profession dedicated to using particularized knowledge and skills for the benefit of all.

The pressures on lawyers toward a single-minded focus on maximizing billable hours and profits are intense; the only really effective restraint pushing back against these pressures is the fragile internal sense of professional identity.

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1 [star footnote] Associate Professor of Law at the University of St. Thomas School of Law (Minneapolis). I want to offer my thanks to the faculty, staff, administrators, students and alumni at UST Law for being dedicated and passionate fellow pilgrims on this exciting journey. I especially want to thank those who gave me their thoughts on the St. Thomas effect through interviews, emails, and notes, Cindy Lavorato and Don LaMagdeleine for their ideas and inspiration on research methods, Virgil Wiebe and Teresa Collett for their thoughtful comments on earlier drafts, and Rachel Fournelle for her stellar research assistant work. Finally, I want to thank God for calling me to teach and work in this wonderful place, and my ever-supportive and dearly beloved husband, Tom Linder, for agreeing to uproot the family and move across the country so that I could do so.


3 Some recent examples: Feature, Court Considers Reform to Advance Legal Professionalism, 40-APR Maryland Bar Journal 42 (March-April 2007); Janet Sidman Eveleth, Professionalism: It’s No Joke, 16-FEB Business Law Today 43 (January-February 2007); Christopher J. Whelan, Some Realism About Professionalism: Core Values, Legality, and Corporate Law Practice, 54 Buffalo Law Review 1067 (2007);

4 “When we neglect the development of identity, we rob our students of the purpose that brought them to law school with devastating consequences for our students and the profession they enter. There are signs of trouble: attrition rates; incidence of mental illness, such as depression, suicide, and substance abuse; and the popular negative image of lawyers.” Daisy Hurst Floyd, Symposium, The Opportunity for Legal Education, Transcript, Afternoon Session, 59 Mercer Law Review 859, 890 (2008). “Large-scale changes in the conditions of practice have washed away many of the institutional pilings that supported the ideals expressed in the Model Rules.” Educating Lawyers: Preparation for the Profession of Law (hereafter, The Carnegie Report), William M. Sullivan, Anne Colby, Judith Welch Wener, Lloyd Bond, Lee S. Shulman. The
Lawyer discipline systems alone cannot enforce professional conduct simply by sanctioning its opposite. Unless a significant percentage of lawyers enforce professional norms on themselves and, by force of social approval, on their colleagues, these norms will become words that bear no relationship to the realities of legal practice.

Our society cannot afford such an outcome. Lawyers and judges control access to the justice system, they affect its functioning at every level, and they have enormous influence over its outcomes. Events such as the Enron debacle indicate the enormous cost to society when lawyers abandon their broader professional and societal perspective and seek only to enrich the client before them. When brilliant lawyers use their skills and knowledge to provide tenuous legal justification for human torture, I believe that there is something very seriously wrong with the state of legal professionalism.

The 2007 Carnegie Foundation’s report on the state of legal education points out the importance and the power of legal education to shape the professional identities of lawyers. The Carnegie Report insists that law schools have no choice about whether they will shape their students’ professional identities, only about how they will do so.

For better or worse, the law school years constitute a powerful moral apprenticeship, whether or not this is intentional. Law schools play an important role in shaping their students’ values, habits of mind, perceptions, and interpretations of the legal world, as well as their understanding of their roles and responsibilities as lawyers and the criteria by which they define and evaluate professional success.

Law schools have an essential role to play in intentionally and thoughtfully instilling in their graduates a professional identity designed to preserve the profession and maximize the profession’s contribution to a functional system of justice and to the common good.

Some argue that moral character is already set and unchangeable by the time that people enter law school, and that it is unrealistic to expect that the law school experience will make any significant change in lawyers’ moral perspectives or choices. Many law school professors assert that they have no effect on the moral development of their students, who are, after all, adults by the time they arrive in the law school classroom. This assertion rings rather dissonantly with the common platitude that law professors teach law students to “think like lawyers”. The assumption appears to be that law school has a


5 “Law school provides the single experience that virtually all legal professionals share. It forms minds and shapes identities.” Id. at 2.

6 Id. at 139.
profound effect on law students’ basic cognition in every area except that of moral reasoning – an odd assumption at best. 7

Moral character is built of many components, including explicitly cognitive ones. First, one must perceive relevant moral concerns in the situation (moral sensitivity); this might also be labeled “moral perception.” Next, one must put those concerns together into an adequate, mature judgment about what is right or wrong (moral judgment). Further if one perceives and judges well, one must still place moral values above other values relevant to the situation, thus effectively deciding to do the moral act (moral motivation). Finally, one must effectively implement the decision to act morally, through perseverance, effective problem solving, etc. (implementation skills). 8

Law school would appear to be the logical place to teach the skills needed to recognize the moral and ethical issues that present themselves most often in the context of law practice, as well as to continue the development of the moral judgment needed to resolve these issues. Law students and new lawyers also continue to face new challenges with respect to competing values (strict honesty in time-keeping versus strict billable hour requirements, e.g.), which will require new applications of moral judgment as professional practice habits are developed. And certainly, law school bills itself as a place to learn how to effectively implement decisions and solve problems. Finally, theories of moral identity indicate that “. . . when morality is important and central to one’s sense of self and identity, it heightens one’s sense of obligation and responsibility to live consistent with one’s moral concerns.” 9 Law school is the place where the law student begins to develop and define her identity as a lawyer. 10

Of course, it is conceivable that law schools believe themselves to have teaching capacities that in fact they lack. However, studies of law students’ moral reasoning seem to indicate that, while not all forms of legal education affect law

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7 “That law students are susceptible to mega-changes in their intellectual processes is the assumption underlying the belief that one can learn to ‘think like a lawyer.’ And toward this end, law schools have employed many of the tools which Kohlberg’s work suggests: role models (professors) and peer influence, not to mention reward and punishment. . . . [G]iven the findings of Kohlberg and the basic assumption of legal educators that significant changes can be wrought in the thinking process of law students, it seems beyond serious dispute that the opportunity is there.” Walter H. Bennett, Jr., Making Moral Lawyers: A Modest Proposal, 36 Catholic University Law Review 45, 47-48 (1986).


10 See discussion of “Integration, Integrity and Independence”, section II. B., below.
students’ moral development, some forms of legal education certainly can affect law students’ moral development. 11

I want to explore the idea that law schools should seek to produce lawyers with a defined and intentional professional identity by taking a close look at the case of the young University of St. Thomas School of Law in Minneapolis, Minnesota. I describe the results of preliminary research into the definition of the “St. Thomas effect”, as envisioned by the major stakeholders in that institution – faculty, administrators, staff, students, and alumni. If such an effect is to be measured, it must first be defined in a way accepted by those who interact closely together in the educational process. Over the next few years, I intend to conduct a qualitative study to determine whether St. Thomas is succeeding in producing the St. Thomas effect.

II. The Case of the University of St. Thomas School of Law

When the University of St. Thomas considered the re-opening of its law school, closed since 1933, in May of 1999, the trustees and administrators were moved by a desire to “do a new thing”. 12 They faced repeated challenges to the very notion of founding of yet another law school, the fourth in the Twin Cities metropolitan area, the 184th in the country. 13 In the year before the opening of the University of St. Thomas School of Law in Minneapolis, law schools in the United States graduated 38,157 new lawyers, 14 to bring the total of admitted attorneys to 1,049,751 or one attorney for every 272 people. 15 Both at the local level, and in the national context, the question was repeatedly raised, “Where is the benefit in establishing another law school? Do we really need more lawyers?”

The answer given by the founders of the University of St. Thomas School of Law to this question was consistent from the start. The world (the United States, the

12 “I am about to do a new thing; now it springs forth, do you not perceive it?” Isaiah 43:19a (New Revised Standard Version).
14 Id.
state of Minnesota, the Twin Cities) may not need more lawyers, but it needs a different kind of lawyer. As stated by Patrick Schiltz, the founding associate/acting dean, “The paramount purpose of the law school should be to help law students integrate their religious convictions and personal values into their professional identities. This... would lead those students to practice law more ethically and use their legal training not to get rich, but to serve God and the most needy among us.”16

The University of St. Thomas School of Law justified its existence from its inception by a claim that it would produce a different kind of lawyer, a lawyer who would incorporate faith and moral values in her self-definition as a lawyer, who would hold herself to a higher moral standard in the practice of law, and who would use her professional degree to seek the common good and serve the poor and vulnerable. Thus, nearly a decade before the publication of the Carnegie Report, UST focused its mission on the development of the professional identities of its students and graduates, the key to the Report’s recommendations.17

As the UST Law School completes its sixth year, those who work in and for the school must start to examine whether it has a right to exist in its own terms. If we justified the creation of UST Law School by the claim that it would be graduating a needed, more beneficial kind of lawyer, then we are obligated to examine our own product, to see if we are producing what was promised. If UST Law graduates are indistinguishable from their peers in the profession, then the great boast of the school and its own justification for its existence are vacuous. As the first associate dean stated:

First, Catholic law schools should do something different from non-Catholic law schools; otherwise they wouldn’t be Catholic. And second, whatever it is that Catholic law schools do differently should have some impact on their students; otherwise, it would hardly be worth doing. Thus, one test of whether a law school is Catholic is whether its graduates behave differently – make different choices – than the graduates of non-Catholic schools.18

In order to search for “the St. Thomas effect”, three things are needed: a clear definition of the distinguishing characteristics that UST Law intends to foster in its graduates; useful metrics to enable the detection and measurement of those characteristics; and the gathering of data to determine whether UST Law graduates in fact possess the desired characteristics in numbers exceeding what we find in the general population of lawyers.

16 Patrick J. Schiltz, Commemoration of the Fifth Anniversary of the Decision to Open the University of St. Thomas School of Law, 1 University of St. Thomas Law Journal 1041, 1050 (2004).
17 “Amid the useful varieties of mission and emphasis among American law schools, the formation of competent and committed professionals deserves and needs to be the common, unifying purpose.” The Carnegie Report at 13.
18 Id. at 1043.
A further question remains to be answered after all this research is completed: does UST Law create these characteristics in its graduates, or does it simply attract students who already possess these characteristics (and manage to keep from squelching these characteristics during the three years of law school study)? Answering this question fully will require further empirical study down the road, and is outside the main focus of this article. The research that I outline below will yield data that should shed some light on this question, and that will provide directions for further research. I would argue that UST Law can still justify its existence even if all it does is provide a uniquely supportive and welcoming home for students already aiming to become this new kind of lawyer.

Yet another important question is immediately raised, when considering the nature of the “St. Thomas effect” – what is it that St. Thomas does during the course of study for a law degree that produces this effect (assuming that we are able to establish the effect)? What is it about the law school’s structure, faculty, administration, policies, curriculum, teaching, extracurricular activities, requirements for graduation, student selection, etc., that gives rise to this effect? This question is incredibly important, and is being examined from several different angles by different members of the St. Thomas community. In the current article, I choose a different focus. I treat the experience of St. Thomas almost as a “black box”, and focus primarily on defining the desired effect and determining to the best of my ability whether we are producing it. Again, the research I describe will provide some useful initial data on the “how” question, as well as on the “whether” question that is my main focus. I expect that this research will be integrated with and will serve to reinforce the self-examination regarding education to mission that is ongoing at the St. Thomas School of Law.

I hope that this research effort will provide a model for other schools as to how they may examine and evaluate the effects of the law school experience on their students’ professional development and identity. The Carnegie Report indicates that “[a]s far as we know, there is no research on the extent to which this influence results in greater incorporation of the ethical-social values of the profession into students’ personal and professional identities.” 19 This project seeks to begin to fill that research gap.

III. Defining the St. Thomas Effect – The Power of Qualitative Research

Qualitative research has long played an important role in the social sciences, but is still relatively unfamiliar to many, including many scholars, outside those academic disciplines.

Qualitative research is multimethod in focus, involving and interpretive, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of

19 The Carnegie Report at 135.
the meanings people bring to them. Qualitative research involves
the studied use and collection of a variety of empirical materials –
case study, personal experience, introspective, life story, interview,
observational, historical, interactional, and visual texts – that
describe routine and problematic moments and meanings in
individuals’ lives. Accordingly, qualitative researchers deploy a
wide range of interconnected methods, hoping always to get a
better fix on the subject matter at hand. 20

Qualitative research thus provides the perfect technique to try to identify
differences, subtle and profound, between how different lawyers conceive of their
own professional and human identity, and how their religious, moral and ethical
commitments affect their law practice. 21

Qualitative research methods are uniquely suited to work with the richness of
detail and context involved in assessing and comparing the nature of
professional identity.

Qualitative researchers are intrigued with the complexity of social
interactions as expressed in daily life and with the meanings the
participants themselves attribute to these interactions. This interest
takes qualitative researchers into natural settings rather than
laboratories and fosters pragmatism in using multiple methods for
exploring the topic of interest. 22

Qualitative research also makes a virtue of the unavoidable fact that both
researcher and research participants are deeply and personally involved in the
social process under study.

[Qualitative research] entails immersion in the everyday life of the
setting chosen for study, values and seeks to discover participants’
perspectives on their worlds, views inquiry as an interactive
process between the researcher and the participants, is both
descriptive and analytic, and relies on people’s words and
observable behavior as the primary data. 23

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20 Norman K. Denzin and Yvonna S. Lincoln, eds., Collecting and Interpreting Qualitative
21 “The word qualitative implies an emphasis on processes and meanings that are not rigorously
examined, or measured (if measured at all), in terms of quantity, amount, intensity, or frequency.
Qualitative researchers stress the socially constructed nature of reality, the intimate relationship
between the researcher and what is studied, and the situational constraints that shape inquiry.
Such researchers emphasize the value-laden nature of inquiry. They seek answers to questions
that stress how social experience is created and given meaning. In contrast, quantitative studies
emphasize the measurement and analysis of causal relationships between variables, not
processes. Inquiry is purported to be within a value-free framework.” Id. at 8.
22 Catherine Marshall and Gretchen B. Rossman, Designing Qualitative Research 2, SAGE
23 Id. at. 7-8. “Research with practitioners, and often by practitioners, who want to improve their
own situation and discover and solve problems is called action research. Research questions are
defined collaboratively with participants; the researcher’s role is often that of facilitator who
expands the questions through consultation, problem posing, and knowledge of existing
literature.”, Id. at 160.
As I began my investigation into the ability of a law school to define and then to produce a particular kind of lawyer, I almost inadvertently conducted an initial small-scale study, as recommended within classic qualitative research methodology. In order to define the St. Thomas effect, I began by: 1) reading all available written descriptions of the goals and mission of the law school; 2) reading all scholarly writing by St. Thomas law professors and administrators related to the education, socialization, identity and value formation of lawyers; 3) conducting unstructured interviews with a broad sample of St. Thomas law faculty, staff and administrators; 4) conducting a semi-structured survey of a random sample of the first graduating class a year after their graduation; 5) distributing an initial draft of my paper describing the St. Thomas effect to all law school faculty, staff and administrators and soliciting comments and criticisms; and 6) presenting my preliminary findings at a colloquium attended by faculty and staff, and incorporating the many of the suggestions I received. Of course, in keeping with the tenets of qualitative research, my own perspective and values as a participant researcher deeply informed my analysis. The ultimate test of my conclusions in this first stage of the research process will be the extent to which members of the St. Thomas community reading this article have an “Oh, yes, that’s it!” reaction to my description of the St. Thomas effect. I am very fortunate to have encountered a carefully thought-out and proven set of theories and methods to help me seek in a rigorous and systematic way the information I wanted, as I move forward in the effort to detect the St. Thomas effect.

IV. A Summary of Findings

Many law schools have mission statements. Often it appears that most of them are just pretty words, used to lure prospective students and donors, without either: 1. a definite content; or 2. any particular influence on the structure or operations of the law school. My original research goal was to determine whether there is any specifically definable consensus as to the kind of lawyer that St. Thomas is seeking to produce. In interviews with administrators, faculty and staff, surveys of alumni, and in the scholarly writings of faculty, I was delighted to find common themes and key concepts emerging over and over. I summarize some of these key findings below.

A. The Law as Vocation

The first defining quality of the kind of lawyers that St. Thomas seeks to produce is that they view the law as a vocation to which they are called, rather than only as a career which they choose. As Jerome Organ, professor and current associate dean, wrote:

24 Id. at 64.
25 “We believe that human beings are created in the image and likeness of the living God, with a common natural vocation to live with each other creatively, and justly, and lovingly... We want to appreciate the law as God sees it, so that we can be of service to the human family that God
Our responsibility as individuals then, is to discover the aptitudes, qualities, charisms and special gifts that God has given us, and then to discern prayerfully how best to foster, develop and use these gifts in our lives so that we can enhance the common good and the kingdom of God. Law students and lawyers particularly, to whom much has been given in terms of intellectual ability, communication skills and educational opportunities, have a special responsibility to discover their gifts and to use them for the common good.26

The St. Thomas lawyer thus has a sense of a duty to seek out the best and highest use of her skills and abilities. She has an obligation to find her proper work in the world, and, in whatever workplace she finds herself, to discover her role in making that place better. The St. Thomas lawyer will engage in continual reflection about her career, seeing it as a coherent whole, seeking to shape it according to her deepest values.27

St. Thomas lawyers won’t all find themselves doing the same kind of work. St. Thomas does not expect that its alumni will all work for non-profit public interest organizations, for example. St. Thomas lawyers will be called to a wide variety of jobs and fields based on the unique abilities and vocations of each graduate, from legal aid and public defenders offices, to small, medium and large firms, to in-house work, to government employment, etc.28 We might expect that the pattern of employment distribution will be different for St. Thomas graduates from that of graduates of other law schools. Job choice, when viewed as a function of vocation, greatly de-emphasizes some common determining factors in the pursuit of legal employment – i.e., salary, status and power – while emphasizing the opportunity to make positive changes in some part of the world. It would be logical to assume that such differences in priorities would be reflected in somewhat different job choices.

B. Integration, Integrity and Independence

St. Thomas’ mission, in contrast to the world view reinforced at most law schools, focuses on the integration of two modes of knowing that are often seen as contradictory in western cultures – faith and reason.29 The St. Thomas School of...
Law asserts in its mission statement that these two modes are not in opposition, but will reinforce and supplement each other in the search for truth. The St. Thomas lawyer will call upon faith-based moral and ethical values as well as logic and reason in seeking the answers to questions she faces in her life and in her law practice. The St. Thomas lawyer will seek the “right” answer in both broad senses of the word — the answer that best comports with reality and the answer that is consonant with the highest good. These two modes of knowing come from the same roots in our language, and the St. Thomas lawyer will affirm their congruity in her life and practice.

This integration of faith and reason in seeking answers will express itself in an internal integration of character in the St. Thomas lawyer — also known as integrity. An attorney who is integrated internally uses the same moral compass in all aspects of her life. She does not have one set of ethics for home and another for the office.

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dealings with family and friends will equally direct interactions with clients, work colleagues, opposing parties, opposing counsel, court personnel, etc.

The St. Thomas lawyer, relying on this single, integrated set of values, will resist cultural pressures of law practice to conform to expected behavior in violation of those values. Her behavior and choices will be guided by this internal compass, rather than being subject to conventional mores or expectations. The St. Thomas lawyer will be able to resist pressures to act contrary to her values, and will push back against and attempt to change cultural expectations and values that she finds unacceptable.

C. Drawing on the Springs of Living Water

Not every lawyer who graduates from St. Thomas will be a religious believer. However, we expect that relatively few students will choose to attend St. Thomas if they find its focus on faith in legal education and law practice distasteful or irrelevant. Therefore, it is expected and desired that the St. Thomas lawyer will be more likely than the average attorney to have an active religious faith and practice that informs her life and her values. As Dean Thomas Mengler states:

We expect our community to explore the spiritual side of our lives, the implications of religion for development of the law

St. Thomas attorney will not check her faith at the door of the classroom or the law firm. No matter what her faith or belief system she will incorporate her personal ethics/values into her professional decisions.” Email from Cari L. Haaland, Director of Admissions, 7/8/05, on file with author.

“The road out of amoral lawyering starts with a profession-wide emphasis on greater moral sensitivity and self-awareness among attorneys. Certainly this effort must begin in law schools, where the legal ethics curriculum all too often focuses strictly on the inculcation of profession-wide norms, giving short shrift to the personal and professional benefits of integrating one’s own moral claims with one’s work.” Robert K. Vischer, Legal Advice as Moral Perspective, 19 The Georgetown Journal of Legal Ethics 225, 271 (2006) (citations omitted). Interview with Professor Dan Liebenson, 5/27/05, on file with author; interview with Professor Greg Sisk, 6/23/05, on file with author; interview with Scott Swanson, Director of Academic Achievement, 7/15/05, on file with author.

Interview with Professor Elizabeth Brown, 7/12/05, on file with author; interview with Professor Mitch Gordon, 7/8/05, on file with author; “[J]ust as the cultures of the organizations of which law students are a part exert a gravitational force upon the law students, so too do law students exert a gravitational force upon the other members of their law school community and the profession by the ethical choices they make.” Jerome M. Organ, A Vocation-Based System of Ethics for Law Students, 45 South Texas Law Review 997, 1008 (2004).

“The water that I will give will become in them a spring of water gushing up to eternal life.” John 4:14 (New Revised Standard Version).

“At its best, religious faith motivates individuals to better themselves and their communities, to put others above self, and to invest with meaning the otherwise mundane, materialist conception of existence. Among lawyers, these qualities are sorely needed, both to heighten a lawyer’s sense of satisfaction with their chosen vocation and to enrich the quality and ethical aspirations of the legal services provided.” Robert K. Vischer, Heretics in the Temple of Law: The Promise and Peril of the Religious Lawyering Movement, 19 Journal of Law and Religion 427, 450-51 (2004) (citations omitted); Interview with Professor Greg Sisk, 6/23/05, on file with author; Interview with Scott Swanson, 7/15/05, on file with author; Survey, Jessica Sanborn, 9/16/05.
and legal profession, and, most profoundly, the extent to which our faith and core values should guide and shape our professional choices, actions and directions.\(^{39}\)

The St. Thomas lawyer will find her faith a bulwark for her fidelity to her own values and an inspiration for her work on behalf of clients. “We want to appreciate the law as God sees it, so that we can be of service to the human family that God loves.”\(^{40}\) Membership in a faith community will ground and reinforce the moral and ethical values that will inform the St. Thomas lawyer’s legal practice.

For religious lawyers, connecting the motivational force of faith with the practice of law gives them reason to transcend the profession’s murky, unambitious vision of profit-oriented lawyering. Such integration not only brings coherence to the lawyer’s professional and personal identities, but stands to benefit the profession by raising the bar as to what it means to be a good lawyer.\(^{41}\)

An important aspect of a legal practice which integrates faith as a fundamental component lies in the nature of faith as essentially communitarian.\(^{42}\) U.S. society and its legal system both tend to be strongly individualistic, even atomistic, in orientation. Religious faith provides an important counterweight to this conception of the law and legal practice. Religious community provides the individual lawyer with support, critique and feedback from others who share her values and goals – factors essential to the ability to maintain those values and goals in the secular and individualistic world of law practice.\(^{43}\)

\(^{39}\) Thomas M. Mengler, What’s Faith Got to do With It? (With Apologies to Tina Turner) 35 University of Toledo Law Review 145, 146-7 (2003).

\(^{40}\) The Reverend D. Reginald Whitt, O.P., Why the ‘Word on the Street’ Won’t Do, homily at the School of Law opening mass, September 2002, found at http://www.stthomas.edu/law/about/whitt_article.asp, viewed 5/27/05); see also Schiltz, Legal Ethics in Decline.

\(^{41}\) Vischer, Heretics in the Temple of Law, 19 Journal of Law and Religion at 454-55 (citation omitted).

\(^{42}\) Comments by Professor Virgil Wiebe on a draft, approx. 4/12/06; “...community is at the core of every major religion, and lawyers’ efforts to break out of the prevailing professional paradigm are centered in community – specifically, communities of other religious lawyers. It is the fundamentally communal nature of religious lawyering that has been left largely unexplored, both in term of the promise it holds for lawyers seeking to integrate their faith with their professional lives, and in terms of the tensions it creates with the liberal project, tensions spawned both by the communal and religious aspects of the movement.” Vischer, Heretics in the Temple of Law, 19 Journal of Law and Religion at 431; “Staying focused on God and our families while practicing law is not easy. Certainly it cannot be done alone. To remain faithful and focused requires an active prayer life and the support of a community of believers in the work place.” Teresa Stanton Collett, To Be a Professing Woman, 27 Texas Tech Law Review 1051, 1059.

\(^{43}\) “First, to the extent that communities of religious lawyers facilitate the integration of faith and practice, these groups bring coherence to the lives of religious lawyers. Second, ... these groups allow lawyers to transcend the minimalist and visionless ethical regime of the profession. Third, the shared ethical norms emanating from a common faith make dialogue more possible, both within the group and with other groups. Such dialogue is a key path toward raising a
St. Thomas is a Catholic law school; however, the vision of the St. Thomas lawyer does not include the expectation that non-Catholic students should convert to Catholicism. St. Thomas attracts a disproportionate number of Catholic students, and it is desired that Catholic graduates will be faithful and active members of the Catholic Church. However, non-Catholic graduates can fully embody the “St. Thomas effect” within the context of their own belief systems and/or faith communities. Non-believing graduates can also participate in this aspect of the St. Thomas effect through their openness to and acceptance of spiritual values, identities and communities.

D. The Servant Leader and the Listening Ear

The St. Thomas lawyer will be humble, a characteristic not usually associated with lawyers. St. Thomas’ mission is dedicated to the search for truth – an indication that the St. Thomas lawyer will not be convinced that she already has the final, complete truth. Honest searching requires humility about the completeness and correctness of answers already found. Honest searching also requires the ability and willingness to truly listen, to open oneself to another’s argument and be alert to the chance that it embodies an important part of the truth.

[One] . . . meaning the phrase Search for Truth conveys is humility and tolerance. We are all searching for the truth, but darn if it’s not hard to find in this world . . . Consequently, we should bring to . . . our search for truth an overriding sense of humility, and of our tolerance for difference. We should bring a warm intellectual embrace to those who are also searching – to those on the left, if we are on the right. To those who are Jewish or Muslim, if we are Christian. We should challenge the premises of others with whom we disagree, but we should do so respectfully – because we are all on the same journey, and none of us holds the tiger by the tail.

Humility will also inform the role of the St. Thomas lawyer as a dedicated servant leader, defined as “. . . a person who is a servant first, motivated to serve others to become what they are capable of becoming.” The servant leader is the leader who leads, not for her own benefit or to serve her own ends, but in order to empower those she leads to achieve their own human potential and goals.

44 Interview with Professor Mitch Gordon, 7/8/05, on file with author.
45 Thomas M. Mengler, One Mission, One Vision, Fall 2005 Mission Roundtable speech, 9/7/05.
46 Case Statement 2, The Thomas Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law (in collaboration with the University of St. Thomas College of Business), discussing the ideas of Robert Greenleaf.
The St. Thomas vision statement states that, “. . . the law school commits to preparing students to become accomplished servant leaders in the practice of law, in the judiciary, in public and community service, in business, and in education.” The St. Thomas lawyer will offer her skills and vision as a leader, but a leader dedicated to the growth and well being of others, not to her own aggrandizement.

E. The Dignity of All People

The St. Thomas lawyer will respect and honor the dignity of every human person. Catholic Social Thought holds this respect for the dignity of every human being as the first of its ten major themes. The St. Thomas lawyer must demonstrate this respect in all aspects of her professional and personal life.

This respect and honor is due regardless of whether another’s beliefs comport with those of the St. Thomas lawyer, or whether another’s actions are seen as good or evil. The St. Thomas lawyer would offer such basic, unalterable respect to defendants guilty of terrible crimes, unprofessional attorneys, abusive judges, and lying clients, to the same degree that she would offer it to models of moral behavior.

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47 Vision Statement, University of St. Thomas School of Law, adopted by the law faculty on 3/20/02, found at http://www.stthomas.edu/law/about/mission.asp, visited 5/27/05.
48 “Beyond a foundation of self-knowledge, ethics, moral courage and a commitment to stewardship, the specific skills a servant leader seeks to develop over a lifetime are:
- listening skills;
- counseling skills;
- consensus-building skills;
- community-building skills; and
- vision-articulation skills (the skill of reflecting back to a group – often through stories – its highest aspirations and synthesizing a dream or vision of the group’s potential.”
49 Major Themes in Catholic Social Teaching, Office for Social Justice of the Archdiocese of St. Paul and Minneapolis, viewed at http://www.osispm.org/cst/themes.htm on 3/23/06. “All women and men are endowed with a rational soul and are created in God’s image; they have the same nature and origin and, being redeemed by Christ, they enjoy the same divine calling and destiny; there is here a basic equality between all and it must be accorded ever greater recognition. . . any kind of social or cultural discrimination in basic personal rights on the grounds of sex, race, color, social conditions, language or religion, must be curbed and eradicated as incompatible with God’s design.”, Gaudium et Spes, Pastoral Constitution on the Church in the Modern World, Second Vatican Council, 1965, #29.
50 “We should show respect for others and recognize their dignity – whatever their ‘station’ in life – recognizing that as God’s children, they deserve our respect and love.” Jerry Organ, From Those to Whom Much Has Been Given, Much Is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School, 1 Journal of Catholic Social Thought 361, 379 (2004).
The St. Thomas attorney will not be able to demonize legal opponents, or make use of abusive or manipulative means to advance her client’s interests or her own career. 51 Law is a profession inherently filled with conflict, but the St. Thomas lawyer will always be burdened with the realization that legal opponents are as fully human, as inherently valuable, and as worthy of respect as herself and her clients. The legal profession and the justice system also tend to be organized very hierarchically (just think about the formal indicia of respect required when addressing judges at various levels in the court system, or the nature of the relationship between junior associates and partners, or between lawyers and staff). The St. Thomas lawyer will be bound to extend the same degree of respect and honor to people at every level of the legal hierarchy, regardless of her position within that hierarchy. The St. Thomas judge or the St. Thomas senator will treat all others with the same basic honor and respect as the St. Thomas first-year associate. 52

F. The Client in the Round

The St. Thomas attorney will not limit her understanding of her clients, or the counsel that she gives them, to only the strictly “legal” issues that the client’s situation presents. 53 She will see the client as a whole person, with legal, psychological, social, medical, ethical, religious, political, and other values and goals. 54 She will inquire into and seek to understand how legal problems fit into the client’s entire situation, and how possible legal remedies may affect other problems, goals and values of the client. The vision statement of the law school emphasizes the importance of “opportunities for interdisciplinary study,” which enable the St. Thomas lawyer to perceive both non-legal problems, and solutions that might be best provided by professionals from other disciplines. 56

51 “Recognizing the justice within the claims of others is one expression of our pursuit of justice while loving God and neighbor.” Teresa Stanton Collett, To Be a Professing Woman, 27 Texas Tech Law Review 1051, 1054 (1996).

52 “We are called to build up a sense of Christian community. . . In the practice of law our best compels us to envision what justice requires our society become, and to direct our efforts to promoting its creation. . . It means treating people in a manner consistent with their human dignity. Thus, the person working in the firm copy room is to be treated with as much respect as the managing partner.” Id. at 1054.

53 “Instead of encountering people who have legal needs as whole persons, such lawyers reduce clients to the elements of their legal claims. . . . Similarly, the lawyer comes to understand herself only as a source of technical knowledge – a sophisticated version of the Lexis machine. . . . This understanding of self and relationships with others is radically inconsistent with the way we are called to understand the world.” Id. at 1051-52, citations omitted.

54 Survey, William J. Fleming, 8/19/05; “. . . love born of faith causes us to love God and seek justice. It calls us to relate to our clients in the fullness of their present pain or desire.” Teresa Stanton Collett, To Be a Professing Woman, 27 Texas Tech Law Review 1051, 1052, citation omitted.

55 Vision Statement, University of St. Thomas School of Law, adopted by the law faculty on 3/20/02, found at http://www.stthomas.edu/law/about/mission.asp, visited 5/27/05.

56 The St. Thomas Legal Services Clinic is located within the university’s Interprofessional Center for Counseling and Legal Services, whose mission is to provide services “. . . through independent and collaborative counseling and legal clinics responsive to the needs of diverse and
Thomas lawyer will adopt “... a fundamentally therapeutic mindset in addressing client problems and concerns, by focusing on the opportunities and challenges of interprofessional collaboration.”

The St. Thomas lawyer will also see how the client’s problems and potential solutions may affect other people and society as a whole. She will seek to build a relationship with her clients such that she understands the client’s values and beliefs and can counsel the client about how different legal choices may affect those values, beyond the maximization of the client’s financial gain or legal advantage. The St. Thomas lawyer will be bound to counsel clients regarding moral and ethical consequences of client decisions and choices which the client might not otherwise consider. The St. Thomas lawyer must undertake such counseling combined with humility and respect for client dignity and autonomy, not usurping the client’s decision-making role, but putting the client’s choices in a broader social context.

G. Working for the Poorest and Weakest

The St. Thomas attorney will take seriously the tenets of Catholic Social Teaching that declare a preferential option must be given to the poorest and the most disadvantaged.

As followers of Christ, we are challenged to make a fundamental ‘option for the poor’ – to speak for the voiceless, to defend the defenseless, to assess life styles, policies, and social [and legal – JLW] institutions in terms of their impact on the poor. This ‘option for the poor’ does not mean pitting one group against another, but rather, strengthening the whole community by assisting those who are the most vulnerable. As Christians, we are called to underserved populations.” Mission Statement, Interprofessional Center for Counseling and Legal Services, found at http://www.stthomas.edu/iccls/index.cfm, visited 4/1/06.


58 “Caitlin Hazard Firer, a staff attorney with Western Minnesota Legal Services in Willmar, said that one of the law school’s strengths is its holistic approach to the law. The professors encourage students to think about the repercussions of their actions in a greater sense – for the client and for the community as a whole, she said. ‘The professors encourage you to look outside the legal system for solutions,’ he [Ryan R. Palmer] said. ‘They encourage a whole-person whole-world solution to problems.’ Whatever Became of St. Thomas Law’s First Class?, Minnesota Lawyer 1,16 (May 22, 2006); Interview with Margie Axtmann, Associate Director for Information Resources, 7/12/05, on file with author; interview with Professor Greg Sisk, 6/23/05, on file with author.

59 Interview with Professor Mitchell Gordon, 7/8/05, on file with author; interview with Professor Greg Sisk, 6/23/05, on file with author.

60 Interview with Professor Greg Sisk, 6/23/05, on file with author.

respond to the needs of all our brothers and sisters, but those with the greatest need require the greatest response.62

The St. Thomas lawyer should be led to “. . . use their legal training not to get rich, but to serve God and the most needy among us.” 63 “[W]e must be particularly aware of the poor and vulnerable within our communities (and beyond those communities) who deserve our special attention as we share our time, talents and treasure.”64

A greater proportion of St. Thomas attorneys will likely choose to work in traditional public interest settings, representing poor clients. However, the majority of St. Thomas attorneys may not be called to such work. The St. Thomas attorney, no matter where she practices, will work to expand the opportunities and the number of lawyers participating in service to the poor and disadvantaged.65 In addition, the St. Thomas lawyer will seek to provide service to the poorest among us across the board, not just in legal representation, but in food, housing, education, care of children, health care, employment, civil rights, and all other areas of life. “Community service, in our view, need not be law-related because the moral imperative to provide service to others does not derive principally from our positions as lawyers, but from our roles as members of God’s community.”66

H. Making a Better World

The University of St. Thomas School of Law “. . . strive[s] to enhance social justice and . . . [to] assist students in integrating their commitments to serve

62 U.S. Catholic Bishops, Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy #16 (1986). “The needs of the poor take priority over the desires of the rich; the rights of workers over the maximization of profits; the preservation of the environment over uncontrolled industrial expansion; the production to meet social needs over production for military purposes.” Id. at #94.
63 Patrick J. Schiltz, Commemoration of the Fifth Anniversary of the Decision to Open the University of St. Thomas School of Law, 1 University of St. Thomas Law Journal 1041, 1050 (2004).
64 Jerry Organ, From Those to Whom Much Has Been Given, Much Is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School, 1 Journal of Catholic Social Thought 361, 379-380 (2004) (citation omitted). “The law school, inspired by Catholic social teaching, and members of the law school community, drawing on their own faith and values, will promote and participate in service programs designed to address the needs and improve the conditions of the disadvantaged and underserved.” Vision Statement, University of St. Thomas School of Law, adopted by the law faculty on 3/20/02, found at http://www.stthomas.edu/law/about/mission.asp, visited 5/27/05.
65 Interview with Professor Dan Liebenson, 5/27/05, on file with author; interview with Professor Elizabeth Brown, 7/12/05, on file with author. “. . . the St. Thomas attorney will give back to the community by either serving in a public interest legal position or doing pro-bono work advocating for the underrepresented members of the community.” Cari Haaland, Director of Admissions, email 7/8/05, on file with author.
society into their personal and professional lives."\textsuperscript{67} The St. Thomas lawyer will understand part of her role as a lawyer as working together with others to fight injustice wherever she encounters it, and trying to foster legal and social systems which promote justice for all. \textsuperscript{68}

It is imperative that no one . . . would indulge in a merely individualistic morality. The best way to fulfill one’s obligations of justice and love is to contribute to the common good according to one’s means and the needs of others, and also to promote and help public and private organizations devoted to bettering the conditions of life. \textsuperscript{69}

The St. Thomas lawyer will not be satisfied with simply doing good work for her clients; she will seek to identify structural problems in social systems, particularly the legal system, and to reform and correct these systems to enhance the common good. A disproportionate number of St. Thomas lawyers may therefore enter public employment, or work with private organizations devoted to societal change. Again, however, the St. Thomas lawyer will seek to serve the common good through social reform wherever she is called to work.

I. Living Passionately

The St. Thomas lawyer will not passively accept unethical cultures, unjust systems, or boring and pointless work done only for a paycheck. As Dean Thomas Mengler states, “. . . our mission is likely to draw passionate students, activists who want to use their law degrees for extraordinary purposes.”\textsuperscript{70} The St. Thomas lawyer will resist falling into cynical or resigned acceptance of forces in the world that crush the human spirit or work against all the qualities of the St. Thomas lawyer described above. \textsuperscript{71} St. Thomas lawyers will passionately seek “. . . [that] we might prevail over the powers of evil – over cynicism and greed and

\textsuperscript{67} Vision Statement, University of St. Thomas School of Law, adopted by the law faculty on 3/20/02, found at \url{http://www.stthomas.edu/law/about/mission.asp}, visited 5/27/05. See also, Mission statement, University of St. Thomas School of Law, adopted by the University of St. Thomas law faculty on March 20, 2002, found on the web at \url{http://www.stthomas.edu/law/about/mission.asp}, visited 5/27/05.

\textsuperscript{68} Interview with Margie Axtmann, Associate Director of Information Resources, 7/12/05, on file with author; interview with Nora Fitzpatrick, Assistant Dean for Administration, 7/15/05, on file with author; Neil Hamilton and Lisa Montpetit Brabbit, \textit{Fostering Professionalism Through Mentoring}, p.12 in draft; “St. Thomas lawyers should be . . . committed to contributing toward social justice and the social welfare of our society”, Survey, Jessica Sanborn, 9/16/05, on file with author.


\textsuperscript{70} Thomas M. Mengler, \textit{What’s Faith Got To Do With It? (With Apologies to Tina Turner}, 35 University of Toledo Law Review 145, 146 (2003); also interview with Professor Dan Liebenson, 5/27/05, on file with author.

\textsuperscript{71} “Believe in something – care about something – so that when the culture of greed presses in on you from all sides, there will be something inside of you pushing back.” Patrick Schiltz, \textit{On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession}, 52 Vanderbilt Law Review 871, 924 (1999).
oppression and indifference, in our lives and in our laws – this year, and every year, and throughout our lives and the life of this faith-based law school.”

J. Life in Balance

Last, but definitely not least, the St. Thomas lawyer will seek a reasonable and humane balance in her life between professional work, family life, friends, community commitments, and reflection, relaxation and self-care. The St. Thomas lawyer will not seek balance because she is a slacker, unwilling to devote herself to hard work in her profession. She will seek balance as a part of her ethical and moral obligation.

    Being admitted to the bar does not absolve you of your responsibilities outside of work – to your family, to your friends, to your community, and, if you’re a person of faith, to your God. To practice law ethically, you must meet those responsibilities, which means that you must live a balanced life.

The kind of unbalanced life lived by so many lawyers, with overwhelming billable hour requirements, will not be an option for the St. Thomas lawyer. The St. Thomas lawyer will strive for a life structure that makes her happy, while still subject to all the frustrations, pains and tragedies of everyday life.

K. Content and Process

A review of the headings under which this definition of the St. Thomas effect is organized may give rise to the question, “are there specific political, moral or ethical positions that will be taken by the St. Thomas lawyer?” In other words, is there specific content to the judgments of the St. Thomas lawyer, or is the effect rather based on the process by which the St. Thomas lawyer reaches her judgments? I would argue that the answer is, “both”, although there will be far more focus on process than on a detailed definition of content. St. Thomas is not seeking to produce lawyers who march in political lock-step, agreeing on all ethical and moral positions. St. Thomas is seeking to produce lawyers who go about the process of making moral and ethical judgments by integrating a particular understanding of the attorney’s role and identity. However, among the above-listed elements that comprise the St. Thomas effect, there are some that definitely exclude certain moral positions from the range of the St. Thomas

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73 Patrick Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 Vanderbilt Law Review 871, 910 (1999).
74 Interview with Professor Greg Sisk, 6/23/05, on file with author; Survey, Jennifer Hon, 8/29/05; “[The St. Thomas lawyer] will purposefully balance her life so as to value family and value her community through involvement in things such as church, little league, or girl scouts. Basically lead a balanced, purpose-driven, thoughtful, reflective, faith-centered life.” Email from Cari Haaland, Director of Admissions, 7/8/05, on file with author.
lawyer. For instance, a respect for the dignity of all human beings would preclude moral or political positions that fail to take seriously human death, suffering, discrimination, and exploitation. A preferential option for the poor and underprivileged prohibits a strict laissez faire attitude toward the sufferings of those at the bottom of the socio-economic spectrum. St. Thomas lawyers will apply these principles in a variety of ways and come to a variety of conclusions. Still, these principles will provide a common ground of discourse among St. Thomas lawyers.

V. Searching for the St. Thomas Effect – Directions for Future Research

The St. Thomas effect, as described above, is a very broad description of the professional identity and values of the St. Thomas lawyer. What indicators will we look for to determine whether a lawyer shares this identity and these values? Some of these factors will be difficult to detect, and perhaps impossible measure quantitatively. How can a mission-driven law school like St. Thomas determine if it is achieving its goals?

While some of these factors are impossible to measure directly, I will seek to gauge the existence of the St. Thomas effect by seeking answer some questions that logically correlate with these factors. These questions include: Where do people work? On what basis do they chose their employment? How do people practice law? How do people practice their faith? What connections exist between spiritual practice and legal practice? How do people interact with the communities in which they live and work? What kinds of contributions do they make? Are they satisfied and fulfilled in their professional and personal lives? Do they avoid the common traps of overwork, excessive stress, substance abuse, and poor mental health?

Future research will be dedicated to discerning whether the St. Thomas effect is found among St. Thomas’ graduates. Both qualitative and quantitative research methods will be employed, including surveys of St. Thomas graduates and their cohorts from other law schools, in-depth interviews with St. Thomas and other graduates, focus group interviews, and a survey of research by other scholars into related questions of professional identity and values. The goals articulated

75 “There is no pluralism ‘in the choice of moral principles or essential values,’ but there is a ‘legitimate plurality of temporal options’ given the ‘variety of strategies available for accomplishing or guaranteeing the same fundamental value, the possibility of different interpretations of the basic principles of political theory, and the technical complexity of many political problems.’” Robert K. Vischer, Faith, Pluralism, and the Practice of Law, 43 Catholic Lawyer 17, 22-23 (2004) (quoting Congregation for the Doctrine of the Faith, Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life, p. 3); “All of this illustrated the need for lawyers, law students, and law professors to be devoted to the search for truth. For this to occur, law schools . . . must begin with a common understanding that 1) objective truth exists, 2) some aspects of it are capable of being described accurately, and 3) those descriptions are relevant to our endeavors as scholars and as lawyers.” Teresa Collett, Teaching Law as a Profession of Faith, 36 South Texas Law Review 109, 117 (1995).
by the St. Thomas School of Law are extremely ambitious, and it may well be that the efforts to achieve these goals fall short. Most observers of the legal system and of the roles too often played by lawyers within it will agree that St. Thomas’ effort is a noble one, and if successful, will prove worthy of emulation.

VI. Conclusion

I want to wrap up this description of the search for the St. Thomas effect by returning to my original question: why should anyone outside of the University of St. Thomas School of Law care whether there is a St. Thomas effect? If a small law school in a medium-sized Midwestern city learns that it is or is not succeeding at its particular mission, who in the wider world should pay attention? I would argue that St. Thomas’ success or failure is of vital interest to society at large. I believe that the St. Thomas project is one example of a desperately needed change in attitude toward the education of lawyers, and indeed of professionals in general. Law schools must turn their attention to studying and thinking intentionally about the characteristics, values and professional identity of the lawyers that they produce.

I do not argue that every law school should adopt St. Thomas’ mission and should aim for the St. Thomas effect. We need a wide variety of values, moral perspectives, and visions of the lawyer’s professional role and identity in legal education. **But we need them.** If law schools can play no effective role in the shaping of the professional identity of new lawyers and the moral and ethical rules that they will practice by, then we are all in serious trouble. If law schools can in fact shape the professional identity of new lawyers, and fail to do so, they are failing in one of their most important tasks. Lawyers all have value systems and criteria for making decisions and choosing actions in the practice of law. The market will provide those systems and decision-making criteria if no one else does. And the values provided by the market will be the death of professionalism and the common good. If law is to survive as a profession, and if society is to thrive based on a functional system of justice, then serious scholarly and practical attention must be paid to how lawyers’ values and professional identities are shaped. It is vital to all of us that we learn whether a law school can create a certain kind of lawyer, and that we pay great attention to exactly what kind of lawyer our law schools are, and should be, turning out.

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