

## EDUCATING PROBLEM SOLVING LAWYERS FOR OUR PROFESSION AND COMMUNITIES

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I am honored to be speaking at this symposium celebrating the centennial of legal education at Rutgers. The School has demonstrated leadership in legal education with its public service emphasis. Its mission has benefited the people of New Jersey as well as the legal profession and legal education. I am indebted to the organizers of the symposium and Dean Stuart Deutsch, who is known for his wit and kindness and has made wonderful contributions to the decanal community during his ten years of service as Dean at Rutgers.

The University of Dayton School of Law began to offer the “Lawyer as Problem Solver” curriculum in 2005. This essay describes our comprehensive curricular revision, aimed at producing problem-solving graduates who are well prepared for practice and leadership in the legal profession and their communities, aligned with the University’s Catholic and Marianist mission of educating “the whole person.” Building on a tradition of experiential learning at Dayton, the curriculum integrates skills more comprehensively, provides practice-related tracks or concentrations in three broad subject areas, and offers an accelerated option that allows students to graduate in as little as two calendar years. The curricular package includes features to attract highly motivated students and provide them with a rigorous, engaging educational experience, including a required externship and a required clinical or capstone experience modeled on the realities of modern legal practice.

I will also address the important themes in two recent works on reforming legal education: the Carnegie Foundation’s report on advancing legal education under the leadership of Judith Wegner and others,<sup>1</sup> and the Best Practices report developed by the Clinical Legal Education Association under Roy Stuckey’s leadership.<sup>2</sup> While our curricular reforms were enacted before these seminal works were

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1. See generally WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

2. See generally ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007).

issued, Dayton's "Lawyer as Problem Solver" approach reflects many of those themes, trying to reach the heads, hands and hearts of law students in preparation for their service as complete professionals to their clients and communities.

In recent years, some of the challenges facing legal educators have drawn national attention, including the difficulty of keeping students engaged after the first year of legal studies,<sup>3</sup> the problem of student debt loads,<sup>4</sup> and other issues. Increasingly, the bench and bar are calling for educators to do more to bridge the gap between the academy and the profession in new lawyer preparation and training.<sup>5</sup> At Dayton, we crafted one approach to updating legal education to address better some of those challenges and prepare lawyers to meet the demands of the new century.

## I. MEETING SOME CHALLENGES FACING LEGAL EDUCATION

Law students, legal educators and lawyers widely share concerns about the many challenges facing legal education, including, but not limited to: the rising cost of legal education and its impact on career choices; the need for greater diversity in our schools and profession; the learning needs and styles of the millennial-generation student; the expansion of large firm law practice and the growth of multi-disciplinary practice; the pressure on lawyers to specialize early; the decrease in mentoring or an "apprenticeship" period for some new lawyers; the influence of technology on law practice; the growth of alternatives to litigation and changes in court-connected processes; and the globalization of law and practice.<sup>6</sup>

In a series of strategic planning discussions beginning nearly a decade ago, we have considered many of these challenges. We looked critically at our competitive position in 2002-2004, assessed our

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3. See THE LAW SCH. SURVEY OF STUDENT ENGAGEMENT, STUDENT ENGAGEMENT IN LAW SCHOOL: PREPARING 21ST CENTURY LAWYERS 7 (2008), [http://Issue.iub.edu/2008\\_Annual\\_Report/pdf/j4u5h7e9/LSSSE\\_2008\\_Annual\\_Report.pdf](http://Issue.iub.edu/2008_Annual_Report/pdf/j4u5h7e9/LSSSE_2008_Annual_Report.pdf). [hereinafter LSSSE, STUDENT ENGAGEMENT] ("Nearly two-thirds of 1Ls (63%) report that they frequently work harder than they thought they could to meet the expectations of faculty members. In the second and third year half of students say the same (52% and 47% respectively).").

4. See THE LAW SCH. SURVEY OF STUDENT ENGAGEMENT, ENGAGING LEGAL EDUCATION: MOVING BEYOND THE STATUS QUO 9 (2006) [http://Issue.iub.edu/2006\\_Annual\\_Report/pdf/LSSSE\\_2006\\_Annual\\_Report.pdf](http://Issue.iub.edu/2006_Annual_Report/pdf/LSSSE_2006_Annual_Report.pdf). [hereinafter LSSSE, ENGAGING LEGAL EDUC.] (finding 75% of law students who incur debt will owe \$60,000).

5. See Erwin Chemerinsky, A Law School for the 21st Century, <http://madisonian.net/2008/04/06/a-law-school-for-the-21st-century/> (last visited Aug. 21, 2009).

6. See, e.g., John O. Sonsterg et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303 (2007) (discussing modern problems in legal education).

strengths and opportunities, and then designed the new curriculum to address some of these challenges.<sup>7</sup> Of course, this analysis must be ongoing, as the legal market continues to change significantly and competition in legal education increases. The faculty is currently in the midst of considering further refinements to the curriculum to continue meeting some challenges and improve continuously the education we offer.

As I have said before, with the curricular reforms implemented in 2005,

we were particularly concerned about the gap between the academy and the profession, and sought to prepare our students better for practice, without sacrificing a strong, broad foundation in analytical thinking and doctrinal coverage. Legal education must evolve to meet the demands of twenty-first century practice. We read about the pressures on legal employers to control costs,<sup>[8]</sup> which places pressure on associates to perform at an advanced level more quickly than had been expected traditionally. We heard from our alumni that associates could no longer sit in court, learn from the judges, and watch great trial lawyers. Many could not find the time for such informal training and many reported a greater emphasis on settlement prior to trial in many areas of the law. While some employers offer strong formal training programs, many new lawyers reported that they were not receiving effective mentoring.<sup>9</sup>

We surveyed various groups extensively in our planning and assessment processes, including legal employers, new lawyers, alumni and others.

With the new curriculum's emphasis on experiential learning and more comprehensive integration of lawyering skills, we seek to prepare students better for practice, while recognizing that new lawyers will still have much to learn on the job. It allows us to bridge the gap between the academy and the profession by encouraging more collaborative efforts between town and gown. Faculty and practitioners are bringing our students the best of both worlds by co-teaching capstone courses,<sup>10</sup> or by adding intriguing

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7. See Lisa A. Kloppenberg, "Lawyer as Problem Solver:" Curricular Innovation at Dayton, 38 U. TOL. L. REV. 547, 550-55 (2007) (detailing curricular reforms) [hereinafter *Lawyer as Problem Solver*]; see also Lisa A. Kloppenberg, *The Balancing Act: Leadership in Strategic Planning*, 36 U. TOL. L. REV. 103 (2004) (describing strategic planning process resulting in curricular change) [hereinafter *The Balancing Act*].

8. See Leigh Jones, *Just How Much Do Law Firm Layoffs Save? A Lot.*, THE NAT'L L.J., Feb. 9, 2009, <http://www.law.com/jsp/njl/PubArticleNLJ.jsp?id=1202428052428&slreturn=1> (discussing the current economic climate and its effects on law firms).

9. *Lawyer as Problem Solver*, supra note 7, at 548.

10. *Id.*

one-unit intra-session courses which can be taught effectively by prominent, busy judges and practitioners. As we surveyed alumni and employers, we kept hearing that our graduates needed to be able "hit the ground running" in those initial jobs. We got so tired of using that phrase at Dayton, but we kept hearing it from employers, from prospective students, and others. Because we want to give our students an edge in a competitive job market, we focus on the skills most needed in those initial jobs.

We sought to attract highly motivated students, with an eye toward their performance both in law school and on the job. We thought that the accelerated option included in the new curriculum might attract some people who are highly motivated in a way that will show both in their legal studies and in the workplace, thereby improving our graduates' strong reputation with employers. In fact, as we started to think about an accelerated option and whether it was workable for some students, we spoke with the School's Advisory Council members and the leaders of major law firms. We learned that many of the managing partners, general counsels and highly successful lawyers had finished law school in two-and-a-half years. Some had returned to school after military service, work or life experience (e.g., starting a family). Some had chosen to finish law school quickly precisely because they had family obligations or financial concerns. Additionally, we wanted to draw students with work and life experience that were attractive to employers and indicative of maturity. The accelerated option, for example, has attracted students with a variety of job experiences, from police officers, scientists and teachers to human resources officers, banking executives and technology experts.

We have worked hard at Dayton to attract a diverse group. We seek diversity in race and gender, reflecting our society and the modern workforce, increasingly important to employers seeking racial and gender diversity. We also seek diversity in age, geographic background, academic majors, and work backgrounds. In its first few years, the accelerated option has been successful in attracting an older group of students, many with graduate degrees, significant work or life experience, and some who are spouses and parents.

"We were also concerned at Dayton Law about national studies showing that many students are less engaged with legal studies by the third year."<sup>11</sup> Students are highly engaged in law school for the first semester or first year, learning new material primarily in large class environments through quasi-Socratic dialogue. Legal education is quite successful at teaching analytical thinking and developing

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11. *Id.*

minds during its first few semesters, as the Carnegie study confirms.<sup>12</sup> After the relatively firm class ranks are released at the end of the first year, with a significant impact on students' job opportunities, some disillusionment is common for students outside the top portion of the class at many law schools. By the latter half of law school, the Law Student Survey of Student Engagement and other studies show declining preparation for classes, declining attendance, and a general disengagement from the learning process.<sup>13</sup> By emphasizing problem solving and experiential learning along with traditional coursework, the Dayton faculty is attempting to foster deeper engagement with the substantive material and lawyering skills throughout students' legal education.

## II. IMPORTANT REPORTS ON IMPROVING LEGAL EDUCATION

The challenges we addressed with our curricular reforms are echoed in recent calls for reform in legal education. The approach we chose at Dayton Law anticipated many of the issues discussed in the *Best Practices for Legal Education*,<sup>14</sup> the *Clinical Legal Education Association Report*,<sup>15</sup> as well as the *Carnegie Report*.<sup>16</sup> The *Carnegie Report* categorizes into three apprenticeships the types of knowledge needed by budding lawyers: academic knowledge, lawyering skills, and professional identity.<sup>17</sup> We have begun to refer to these three apprenticeships as that of the head, the hands, and the heart, because at Dayton, as at many religiously affiliated universities, there is an emphasis on educating "the whole person."<sup>18</sup> Lawyers have brains, but also must employ other lawyering skills and use judgment in counseling clients. Dean Rod Smolla of Washington & Lee University often speaks about the important curricular reforms at his law school, where a student's third year is consumed by practica taught by practitioners and full-time faculty members.<sup>19</sup> In the practica, students develop expertise in an area of law in law practice-like settings, teaching professional development in the midst

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12. SULLIVAN, *supra* note 1, at 47-53.

13. See LSSSE, STUDENT ENGAGEMENT, *supra* note 3, at 7 (finding 25% of 3L's do not prepare for class); LSSSE, ENGAGING LEGAL EDUC., *supra* note 4, at 9 (finding less than one in three 3L's spend more than 11 hours per week on class work).

14. See generally STUCKEY, *supra* note 2, at 7-9 (addressing problems with legal education and proposing potential solutions).

15. *Id.*

16. SULLIVAN, *supra* note 1, at ch. 5.

17. *Id.* at 27-28.

18. See UNIV. OF DAYTON, A VISION OF EXCELLENCE (2005), <http://provost.udayton.edu/Vision/VOE%20final%20-%20Sept05.pdf>.

19. Washington & Lee Univ. Sch. of Law, About the J.D. Program at W&L, <http://law.wlu.edu/admissions/page.asp?pageid=311> (last visited Aug. 21, 2009).

of substantive and procedural law,<sup>20</sup> much like the capstone experience at Dayton. Dean Smolla and I speak to audiences regularly about reform in legal education, and when I mention the “3 Hs” (educating law students’ “heads, hands, and hearts”), he always refers to the “4<sup>th</sup> H” (“health”), associated with the “4-H Clubs” of the Midwest. For a lawyer to be a complete professional, all four aspects are critical. Our vision at Dayton Law, set out in Section IV below, asserts that attention to all three of the Carnegie apprenticeships will lead to more fulfilled lawyers.

Of course, we want our students to be well prepared for the Bar examination, and we require a lot of Bar courses. We really did not change the first year of the standard legal curriculum very much with our reforms in 2005, in part because we felt that the content of criminal law, property, torts, civil procedure, those basic doctrinal topics, were core for all lawyers. Additionally, the skills of “thinking like a lawyer” in terms of reading, analytical thinking, research and writing, were really important to instill early in a student’s legal education. The *Carnegie Report*, released in 2007, affirmed that law schools excel at this first apprenticeship – legal education’s signature pedagogy – and this is the area where change is least needed.<sup>21</sup>

The second area that the Carnegie work focuses on is the apprenticeship of the “hands” or lawyering skills.<sup>22</sup> Hands-on experiential learning fits in this category. This has always been one of our strengths at Dayton, from our exceptional legal research and writing program to strong clinic and externship offerings. So this is one where we expanded skills experiences with the new curriculum very deliberately. We felt that students would learn better in their fourth, fifth and sixth semesters if they had worked with lawyers outside the classroom and learned a little bit about what district attorneys do, what it is like to work for a client in a law firm, or to work with clients in the legal aid context.<sup>23</sup> That context informs how students learn and apply knowledge in subsequent classes.<sup>24</sup> For some students who have not excelled academically in law school, it can offer encouragement and motivation.<sup>25</sup> Some respond quite

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20. *Id.*

21. SULLIVAN, *supra* note 1, at 21-24.

22. *Id.*

23. *See Lawyer as Problem Solver*, *supra* note 7, at 548 (“With the new curriculum’s emphasis on experiential learning including more comprehensive integration of lawyering skills and a broader reach of externships, we seek to prepare students better for practice.”).

24. *See id.* at 549 (“What law students encounter in their externships, part-time jobs, and summer clerkships informs how they study, absorb, and apply material in courses.”).

25. *Id.* at 548.

well to field experiences, saying, “Yes, there was a reason why I came to law school. I really can do well at this. I can help people. I may not be in the top ten percent of the class, but I am motivated because I have some skills that I can use in dealing with people, in writing, in research, in client counseling.”

Finally, the last apprenticeship is of the “heart” – enhancing ethics, values, and professionalism.<sup>26</sup> Law schools struggle most with this apprenticeship.<sup>27</sup> It is a difficult area for legal education, for some good reasons. Few of us are trained ethicists.<sup>28</sup> There is some hesitancy on the part of law faculty members: how can we tell all of you what is right? What makes me, as a law school professor, the expert on ethics and values? We have Model Rules,<sup>29</sup> of course, and required professional responsibility courses in all law schools.<sup>30</sup> Those classes can be incredibly frustrating, however, for both students and professors. The Rules provide an important baseline, a lowest common denominator form of professional ethics,<sup>31</sup> but they are not sufficient to help students form professional identity as they explore issues of ethics, value, justice and the roles lawyers play in various contexts. At Dayton Law, we are addressing this with a professionalism course at the outset of students’ legal education, in our Legal Profession Program and through some of the intra-session offerings described in Section IV below. We also offer not-for-credit symposia and speakers regularly on topics of ethics and social justice. These offerings are supported by special funds to promote mission-related activities, including the endowed Gilvary Series on Law, Religion & Social Justice, the endowed Porter Wright Morris & Arthur Series on Law, Religion & Ethics, and the Project for Law & Business Ethics. Sometimes professors request or suggest that students attend particular sessions but few professors require attendance. Similarly, our Pro Bono Commitment to Community program is voluntary and extracurricular, but a growing number of students are participating in these opportunities for professional

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26. See SULLIVAN, *supra* note 1, at ch. 4.

27. See LSSSE, STUDENT ENGAGEMENT, *supra* note 3, at 8 (explaining that traditional courses are ineffective at teaching students how to resolve ethical dilemmas).

28. See BANKS MCDOWELL, ETHICS AND EXCUSES: THE CRISIS IN PROFESSIONAL RESPONSIBILITY 47-54 (2000) (explaining that lawyers are not trained ethicists because legal training instructs lawyers to obey the law, but obeying the law is not analogous to acting ethically).

29. MODEL RULES OF PROF’L CONDUCT (2008).

30. See STANDARDS FOR APPROVAL OF LAW SCHOOLS § 302(a)(5) interpretation 302-9 (2008-09) (“The substantial instruction . . . required by . . . 302(a)(5) includes instruction in . . . the Model Rules of Professional Conduct . . .”).

31. See MODEL RULES OF PROF’L CONDUCT, *supra* note 29, pmb. ¶ 16 (explaining that the rules are not a comprehensive list of ethical considerations for lawyers).

development and public service.

Thus, with the third type of knowledge, educators are trying to help students develop their professional identities by promoting lifelong learning about ethics, professionalism, and values, including social justice at our Marianist institution. These professional identity issues concern rich concepts, widely shared. For example: What is the goal of the lawyer – in serving a client, doing justice, and promoting justice? This type of knowledge is difficult to instill in students who are just beginning to grasp legal concepts, just entering the field and are largely young and without decades of challenging work or life experience. Some of this formation must include on-the-job training, but law schools are seeking effective ways to integrate this type of knowledge along with the academic and lawyering skills knowledge so that students are at least cognizant of the importance of developing this aspect of their professional lives.

### III. DEFINING OUR DISTINCTIVENESS

This type of engagement builds on a history of experiential learning expertise and interest among the faculty. Dayton has long offered small sections in its outstanding and nationally recognized Legal Profession program, with a focus on research, critical thinking, and writing skills. The courses promote professional development through exercises simulating legal practice, which sometimes incorporate ethical issues, frequently require teamwork, and always culminate in individualized student assessment. In recent years, Dayton has offered more small sections in other first year courses, increased the use of midterms, and employed other methods to keep many students engaged throughout the semester in larger courses.

To keep upper-level students highly engaged, some faculty members had developed smaller size, problem-based courses prior to adoption of the new curriculum (e.g., Family Law seminar, Health Care seminar, Advanced Commercial Real Estate Transactions, Business Planning). The School had long offered a Law Clinic and the Volunteer Income Tax Assistance Program, providing opportunities for students to learn while assisting live clients. Faculty members have experimented with combined trial practice/evidence courses, sometimes linked to subject matter areas (e.g., Civil, Criminal, Intellectual Property sections). The School had also increased its dispute resolution offerings and externship placements in the decade prior to the adoption of “Lawyer as Problem Solver.”

These developments certainly strengthened our offerings and helped prepare students better for practice. Nevertheless, we were troubled because not all students were exposed to problem-based courses and there was no coherent sequencing of problem-solving

skills. The “Lawyer as Problem Solver” builds on the School’s traditional strengths and these recent pilots, attempting to engage students more comprehensively with problem-solving skills in a sequential manner and better prepare them for their professional roles.

As the School refined its curriculum, it was important to highlight our fit with the University’s mission and strengths. The University of Dayton places great emphasis on innovation, providing a transformative education for students and urging them to transform the world around them. In part this is due to Dayton’s Marianist character but it is also related to the University’s strength in science, engineering and technology. Dayton boasts a strong research institute, working with Wright Patterson Air Force Base and the Air Force Institute of Technology. The law school began one of the earliest intellectual property programs in the country in 1989 and now has graduates of the Program in Law & Technology working around the world, with a growing team of scholars in the area, and the Program continues to draw strong students from around the nation. An emphasis on innovation is quite fitting in Dayton, home to some of the great inventions in our country, from the airplane<sup>32</sup> to the electric auto ignition,<sup>33</sup> from cinema equipment<sup>34</sup> to the cash register<sup>35</sup> to personal digital assistant technologies,<sup>36</sup> from space food<sup>37</sup> to mood rings.<sup>38</sup> At one time, Dayton had the most inventors per capita<sup>39</sup> and it is still ranked highly among areas in the United States for invention,<sup>40</sup> with many technology companies, engineering schools and an emphasis on entrepreneurship.

A focus on experiential learning also fits well with the Catholic and Marianist identity of the University and law school. The University espouses “integrating learning and living in community” as a way to engage the “whole person” – the head, hands and heart - in the educational enterprise.<sup>41</sup> The Marianists are concerned about doing things for the community and on the ground, in the trenches for the poor and marginalized in our society. We tell our students

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32. City of Dayton, Dayton Inventions, <http://www.cityofdayton.org/departments/pa/Pages/inventionlist.aspx> (last visited Aug. 21, 2009).

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. Dayton, Ohio, <http://www.touring-ohio.com/southwest/dayton/dayton.html> (last visited Aug. 21, 2009).

40. *Id.*

41. THE UNIV. OF DAYTON, *supra* note 18.

that they are each so talented; of course, they want to earn a good living and take care of their families, but we ask them to consider how they are going to give back to their communities, too. The Dayton faculty has long believed in training students to be complete professionals. Its nationally ranked, outstanding legal research and writing program is called "The Legal Profession Program." Many faculty members, in that Program and beyond, discuss the role of the lawyer in their courses. We want graduates to be skilled counselors who can help clients exercise good judgment, who at least think about the ethical questions. We cannot always give them the right answers, but we want them to be conscious of asking the ethical questions. We really want them to go out and serve their clients well, and also to help by being leaders in their communities.

With law students, this engagement can happen through courses as well as in students' work experience outside the classroom as they integrate theory and practice. What law students encounter in their externships, part-time jobs, and summer clerkships also informs how they study, absorb and apply material in courses. Students sometimes bring work problems, including ethical issues, into conversations with law faculty members. Through our new curriculum, we seek to formalize this type of dialogue, make it ongoing, and provide opportunities for reflection with guidance from faculty members and lawyers. Students benefit not only from exposure to the "real world" of practice, but also from the opportunity to reflect upon these experiences, positive and negative, with classmates and faculty members.

When students work with real clients, actual lawyers, or even the actors used for some of our courses, another dimension of the lawyering role emerges beyond case analysis. Students encounter the human dimensions of practice, where communication is paramount and the clients' priorities, interests, and needs are critical. The curriculum attempts to link learning inside and outside the classroom as students begin to develop their professional identities, promoting reflection and better integrating their personal values and professional roles. Building on our strength in integrating theory and practice in the Marianist tradition, the curriculum strives to train students, who will become problem-solving leaders, serving their clients, the justice system, and their communities with ethics and integrity.

At Dayton Law, we operate in a very competitive law school environment, competing with strong public schools in the region as well as other private institutions. As a private, faith-based institution, we recruit broadly and place students in jobs in a broad market segment. To thrive amid Ohio's demographics, we must attract students from outside our region to the Midwest and at the

same time draw strong students from within our region. As a relatively young law school without a large endowment, we must excel to attract students. We have to build a reputation among employers and prospective students. Finding attractive niches to engage students and satisfy employers has thus been a focus of our strategic planning efforts, demonstrated by our innovative Program in Law & Technology, our beautiful facility, and by building on the faculty's experiential learning strengths and Marianist mission with the "Lawyer as Problem Solver" reforms.

#### IV. HIGHLIGHTS OF THE "LAWYER AS PROBLEM SOLVER" CURRICULUM

##### A. *The Vision*

The key elements of the "Lawyer as Problem Solver" vision of legal education follow:

1. The lawyer's fundamental role is to help clients solve complex problems and make appropriate choices. To fulfill this role, lawyers require an outstanding foundation in analytical reasoning, substantive legal doctrines, and professional skills. The best lawyers are not mere technicians; they act with sound judgment and common sense, always cognizant of their clients', and their own, ethical responsibilities.
2. Lawyers help clients and communities prevent and resolve conflict. They help clients prevent future disputes and help them manage current conflict by choosing effective dispute resolution processes to achieve durable solutions.
3. Lawyers serve the people and organizations they represent through a blend of practical and intellectual activities. Thus, they need to understand more than legal doctrines in books; they need to understand people and organizations.
4. Lawyers who excel become fulfilled leaders who serve their clients, the justice system, and their communities by making the world more just and fair.

##### B. *Principal Elements of the New Curriculum*

###### 1. Foundational Breadth

The "Lawyer as Problem Solver" retains much of a traditional first year curriculum with its emphasis on the case method and analytical thinking. The curriculum adds required upper-level subjects included on most jurisdictions' bar examinations. Thus, it aims for a broad foundation in a variety of core or foundational legal subjects.

## 2. Curricular Tracks

Our offerings add some depth and opportunity for specialization in three broad areas: advocacy and dispute resolution (with a criminal and civil specialization as a student advances); personal and transactional law (with a focus on representing individuals and businesses in transactional work); and intellectual property, cyber law, and creativity (with advanced specialization in patent or a broader intellectual property sequence of courses). These tracks fit the expertise of existing faculty members, the interests of many prospective students, the strengths of the School historically and job placement opportunities in the region. For example, our widely renowned Program in Law & Technology offers intellectual property and cyber law experts, programming, and externships. Students in each track are exposed to the subject matter that interests them early (e.g., through specific, track-related Legal Profession exercises and one track-related offering during their first year). These tracks might be likened to minors or concentrations for an undergraduate rather than an additional major to the Juris Doctorate degree.

If students want to pursue greater depth in Law & Technology, the School offers an LL.M. as well as a Master's degree for non-lawyers in the field of intellectual property, cyber law and creativity.

## 3. Capstones: Examples of Depth and Progression

The curriculum also requires each student to take a capstone course or clinic, helping students transition from a theoretical to a practical understanding of the practice area, bringing together skills and theory, and providing students with a rigorous writing requirement. We offer criminal and civil in-house clinics with live clients, a full-scale law office, etc. Capstone courses are four-unit courses providing a culminating experience in the progression of legal education. Capstones encourage students to take the knowledge gained in earlier courses and apply it to a complicated problem, simulating practice more than possible in another survey course. They often will combine several legal subjects and all will require significant written work. Many of the courses adapt actual documents used in legal transactions and litigation. Offerings have included, for example, Cybercrime, allowing students to draft jurisdiction-specific manuals for prosecutors and law enforcement officials; Commercial Real Estate Transactions, in which students negotiate and draft documents used in the development of a shopping mall; Civil Rights & Civil Liberties, involving students in interviewing of clients, depositions, and pre-trial civil work; Business Planning for Small Businesses, involving work with accountants and transactional drafting. Additionally, students have had opportunities to take capstones in patent prosecution; patent

litigation; advanced trial practice; international human rights; complex civil litigation; tort litigation; estate and tax planning; domestic relations practice; and commercialization of intellectual property.

Most of the capstones have been team-taught so that full-time law professors can draw on the expertise of practitioners and the load can be shared. Law professors have also developed other forms of assistance, with judges and lawyers participating in capstones to hear oral arguments, volunteers helping with mock summary judgment proceedings or negotiation and mediation exercises, etc. Students have commented about the high expectations of professors in capstone courses. Recent alumni have reported that they were well prepared to deal with law firm partner expectations because of their rigorous capstone experiences or that they received challenging assignments directly because of their experiences in the capstone courses (e.g., deposing a medical expert or defending a civil rights case).

#### 4. Experiential Learning Opportunities & Enhanced Skills Offerings

The "Lawyer as Problem Solver" curriculum creates meaningful opportunities for experiential learning. Each student completes a four-unit externship, affording hands-on experience, individualized feedback, and reflection. We hired two full-time externship supervisors to run this course, with assistance from existing faculty members and field supervisors.

To enhance skills offerings and prepare students for the reality of modern law practice, each student takes a course in dispute resolution and each completes a competency test in basic lawyering skills before graduation. The scenarios used in our competency intra-session were developed after surveying alumni on some of the most common challenges they faced as new lawyers, including conflict-of-interest issues, conveying to clients that they do not have a legal claim, and other difficult matters. Students work with lawyers, actors and professors as they engage with the material, perform the assigned written and non-written tasks, and receive feedback, including a critique of their videotaped performance from the mock client and supervisors.

#### 5. Intra-Session Courses: Examples of Broadened Horizons

Dayton offers intensive, one-unit intra-session courses, providing students the opportunity to survey a wide array of topics, enhance their professional skills, explore cutting-edge issues, and encounter a variety of legal perspectives. The courses have also afforded some faculty members the chance to develop short courses in

an area of current scholarly interest. Most intra-sessions are offered during a special week mid-semester set aside for them but professors are experimenting with versions spread over several weeks at other points in the semester. The intra-sessions also allow a busy judge or lawyer who cannot devote a whole semester to teach a specialty course in a more convenient time format for the adjunct professor and some students. Intra-sessions have covered a wide variety of topics since 2005, including, for example: Mental Health Issues for Juveniles; Homelessness and the Law; Criminal Sanctions; Comparative Constitutional Law; Human Trafficking; White Collar Crime; Nuremberg Trials; Interstate Domestic Relations; Personal Property; Corporate Ethics; Federal Indian Law and Gambling; Discovery Techniques; Virtual Online Mediation; Selected Topics in Race, Racism and the Law; From *Plessy* to *Grutter*; Adoption Law and Practice; Oil and Gas Law; The Death Penalty; Digital Music Sampling and Copyright; Preventing Attorney Discipline; Nonprofit Organizations; Religion and the Law; and others.

As the list suggests, intra-sessions serve a variety of purposes. They can help prepare students for specific bar exam topics in a short session (e.g., the students who need Oil and Gas Law for the Texas exam). They can align with faculty scholarly interests and develop expertise on cutting-edge issues (e.g., Human Trafficking, Virtual Online Mediation and others). Many address issues of professionalism, values, ethics and social justice, linked to the third Carnegie apprenticeship. Some are opportunities for lawyering skills development. Some are designed to give students the opportunity for deeper theoretical reflection (e.g., Law and Religion, Racism and Law, Comparative Constitutional Law, Criminal Sanctions) and some to give students an opportunity to explore a potential employment field (e.g., some of the courses dealing with juvenile issues or the criminal arena). Grading for the courses and assignments range, often including papers and quizzes; a few have offered voluntary service opportunities attached to the topic.

#### 6. A New Academic Calendar & Accelerated Option

Dayton now offers students the opportunity to graduate in either five or six semesters and to begin the study of law in either the summer or the fall. Students complete the same rigorous course of studies, whether in five or six semesters. If a student commenced her studies in Summer 2006 and maintained the standing necessary to stay on the five-semester option, she could graduate in May 2008 (with Summer 2007 reserved for a clerkship) – only two calendar years. This year, Northwestern Law School announced that it will

offer a similar accelerated option<sup>42</sup> and Dayton Law began its fourth Summer Start cohort.

First, we thought this accelerated option might help keep some students engaged during the entire period of their studies because of its pace and rigor. Second, it saves students living costs and gets them back into the job market a year earlier. We wanted to draw highly motivated students, with strong academic preparation and a diversity of backgrounds, as noted earlier. Although the program has only been in operation for four years, it has drawn a highly motivated, non-traditional group of students. Thus far, Summer Starters (who can complete their course of study in two calendar years) are on average about four years older than our Fall Starters. For most of the four years, the Summer Start group has been a highly diverse group in terms of gender and race, as well. Summer Starters hold a much higher percentage of graduate degrees and most bring work experience to the classroom. A much higher percentage have children, too, or other family responsibilities.

## V. CONCLUSION

In conclusion, I must applaud the Dayton Law faculty and staff members for their courage, devotion to students and work ethic. Faculty members were already busy with significant scholarship, teaching, and service responsibilities before they voted for curricular reform. Staff members were already busy recruiting classes, serving our students, and placing them in jobs. As we moved to a year-round calendar of classes, with Summer Starters, many people within the University of Dayton School of Law community have had to undertake new work and make adjustments to their schedules and responsibilities.

While the work has been daunting at times, the broad scope of reform has engaged many members of the faculty, staff, and even some adjuncts and alumni. This is a period of renewed creativity in our community. For example, many faculty members have created highly effective new intra-session or capstone courses, and some have even been inspired to produce teaching materials, reflect on their pedagogy or share their new knowledge with the broader academic and professional community. A trio of professors is now engaged, for example, in a Bar Outreach Project, surveying students, new lawyers and employers to ensure that what we teach in the lawyering skills field matches well with what is most needed for graduates entering different areas of law practice. Curricular assessment will be ongoing and some revisions surely will be needed over time to keep

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42. See David E. Van Zandt, *Foundational Competencies: Innovation in Legal Education*, 61 RUTGERS L. REV. 4 (2009).

the curriculum responsive to student interests, employer needs, changes in the legal services market, as well as faculty expertise and interest.

When we undertook these reforms, we believed them critical for our students and profession but we were not assured that they would bring us national recognition or improve the School's reputation with critical constituents. Thus, the recognition afforded us by the Carnegie Foundation in 2007 for being in the "vanguard" of reform in legal education and including Dayton Law<sup>43</sup> with a select group of schools poised to transform legal education was extremely heartening. Additionally, the International Institute for Conflict Prevention and Resolution presented the School with its Problem Solver Award in 2006. The judges emphasized that Dayton's "unprecedented focus on problem-solving throughout the entire curriculum should be honored for its breadth."<sup>44</sup> Members of our community have been asked to speak about our reforms at numerous conferences, from American Bar Association and American Association of Law School functions to symposia at law schools to the National Conference of Bar Examiners. This national attention and the comprehensive nature of the reform have helped rally support and resources from the University and donors.

Of course, at end of day, we do this for our students and their future clients. At Dayton, we aim to produce problem-solving lawyers to help those future clients and provide leadership for the communities in which our lawyers will serve. Many of us at Dayton Law feel as if we are working on something important for the School, for our students, for their employers and clients, and for legal education. Speaking with colleagues across the country about these reforms has further encouraged assessment and inspired continuous improvement. Thus, I am grateful for the opportunity to contribute to this important centennial symposium for Rutgers and I look forward to learning from the approaches of other law schools, as they improve legal education to advance their missions and serve their students and their regions. Thank you very much.

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43. Univ. of Dayton, Awards & Rankings, [http://www.udayton.edu/awards\\_and\\_rankings.php](http://www.udayton.edu/awards_and_rankings.php) (last visited Aug. 21, 2009).

44. Univ. of Dayton Sch. of Law, School of Law's New Curriculum Wins International Award from Group that Advocates Resolving Disputes Outside Courtroom, <http://law.udayton.edu/newsevents> (last visited Aug. 21, 2006) (quoting Helena Erickson, senior vice president for research, development and education at CPR).