

Reflections on LSSSE's Fifteen-Year Trajectory and Beyond

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I have chaired the LSSSE Advisory Group since its inception. I am generally in favor of regular turnover of members of such groups, but I am also happy that I am still a member and chair. LSSSE has had a remarkable history so far. It began with no assurances that law schools would be interested in the kind of data NSSE produced for undergraduate institutions. Law schools, after all, had a history of teaching that simply reproduced how the teachers had been taught themselves. There were notable exceptions, of course, but there was not the same focus on teaching that characterized undergraduate institutions. Today LSSSE is well-established and beginning to realize its huge potential.

When I was asked to join the LSSSE Advisory Board, I had just stepped down as director of the American Bar Foundation, and I jumped at the chance to be part of what I saw as a nice new research tool for scholars of law schools and the legal profession. I was impressed with George Kuh, coming from NSSE, who was the founding director of LSSSE, and Patrick O'Day, who handled the daily operations. Lauren Robel and Richard Matasar, also on the board, had the benefit also of being from the schools for the pilot study of LSSSE. The other members of a notable group were Alison Anderson, Professor of Law Emerita, UCLA; Thomas Ehrlich, Senior Scholar, The Carnegie Foundation for the Advancement of Teaching; Carl Monk, Executive Vice President and Executive Director, Association of American Law Schools; Harry G. Prince, Professor of Law, University of California, Hastings College of the Law; and Todd Rakoff, Vice Dean for Academic Programming, Harvard Law School. LSSSE has continued to attract influential and talented people to the advisory board and, more importantly, to the leading positions. The work of the directors Carole Silver (2010), Aaron Taylor (2014), and now Meera Deo (2018) has been exemplary, as has the work of Chad Christensen as project manager.

LSSSE, it turned out, arrived at a propitious time. The Carnegie study *Educating Lawyers* was soon to be published in 2007, which challenged the hegemony of teaching by the case method and emphasized the lack of

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attention to professional identity.¹ Roy Stuckey and his colleagues also produced a volume the same year on *Best Practices for Legal Education*.² Law school competition had heated up considerably, and with that competition came a much greater emphasis on marketing and consumer satisfaction. Competition also put curricular issues in play as part of that marketing and competition. The ascendancy of rankings also suggested the importance of finding other ways to evaluate the quality of a particular law school. And outcome measures were soon to be added to the the ABA Standards for accreditation.³ The last was especially important, in my opinion, in institutionalizing LSSSE.

The process of building the credibility of LSSSE in the legal education world seems to have been pretty easy in retrospect. But a lot of work went into it. One sees the strategy in the membership of the board, which shifted in favor of representing organizations of legal education, including the American Bar Association's Section on Legal Education and the the Law School Admission Council, and Carl Monk, representing the Association of American Law Schools. These individuals enhanced awareness of LSSSE and also drew LSSSE into the circle of key institutions concerned with legal education. Remarkably, LSSSE started off with a bang. Forty-two law schools participated in LSSSE 2004, and 13,000 law students responded to the questionnaires. The participation grew substantially after that, as other essays in this volume note. LSSSE is now a fixture in legal education in the United States and Canada, and has also been used with fascinating results in Australia.

My introduction to the first report in 2004 made a few points. It is interesting to see what I thought then and how those ideas have turned out.

First was the idea that LSSSE might unsettle traditional legal education: "We know the case method is 'engaging,' and the general sentiment is that students who are exposed to a good number of professors who practice this particular art well will have an optimal educational experience. For many reasons, that assumption can no longer be accepted without much more inquiry Law schools have a core that rarely seems to change, but there is also a great deal of experimentation around that core. LSSSE provides a unique opportunity to explore systematically what is achieved—and what can be improved—in traditional and nontraditional areas of the curriculum." A second reason I mentioned was "the perceived importance of law school ratings, which relates to a more general and perhaps healthier development of

1. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007).
2. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007).
3. CATHERINE L. CARPENTER ET AL., *REPORT OF THE OUTCOME MEASURES COMMITTEE, ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR I* (2008), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/2008_outcome_measures_committee_final_report.authcheckdam.pdf.

a consumer perspective on law school.” A third one worth mentioning is bar passage, which I noted cannot be taken for granted at many law schools.

From today’s perspective, I believe LSSSE is still underutilized for all three of these areas. I could be wrong, but I have not seen very much systematic review of curricular reforms using the survey, even though curricular reform is now much more important in law school competition. I hoped that LSSSE’s results on faculty availability and faculty feedback might somehow be brought into the law school rankings, but the law school establishment has opposed anything that adds any legitimacy to the *U.S. News & World Report* rankings in particular. Some schools have shown LSSSE scores as a recruiting device, but this potential dimension in rankings so far seems far off at best. Law schools are so far only reactive with respect to the rankings. As for helping bar examination performance, individual law schools have again not used LSSSE as much as they should, but LSSSE combined with Access Lex is now undertaking systematic research with some fascinating results already available.⁴

The underuse of LSSSE data by schools relates to the fact that law schools still do not know enough about how to use the data and why it makes sense to enrich the analyses by signing up for the survey every year. That lack of knowledge is not a result of LSSSE’s lack of trying. It may be slowly changing. I certainly hope so.

Two big successes of LSSSE relate to matters I did not discuss in my introduction to the first report. One is that outcome measures have taken hold, and one measure of outcome is student satisfaction as measured by LSSSE. It is very difficult for a school looking to accreditation or reaccreditation to avoid using LSSSE in the self-study report. LSSSE is therefore built into law school practice for at least this reason, and that is indeed a major accomplishment.

The second big success, which is growing, is the use of the large datasets of LSSSE to understand law students and legal education better. The study of bar passage is one example. There are also important studies of, for example, student debt; race, ethnicity, and gender; student stress and access to counseling; and engagement with foreign graduate students. The LSSSE data are now indispensable to research on law school, and researchers including the LSSSE directors are playing an important role in producing scholarship based on LSSSE data. These studies are summarized on the LSSSE blog, which helps to diffuse results. As I noted, this potential was what initially attracted me to LSSSE, and it is nice to see a recent blog by Ajay K. Mehrotra, the current director of the American Bar Foundation, and Shih-Chun Chien, a research social scientist there, detailing the value of LSSSE data and how ABF researchers are utilizing the data in several projects.⁵

4. Aaron N. Taylor, *Guest Post: Connecting Bar Exam Performance to the Law Student Experience*, Law School Survey of Student Engagement (Oct. 31, 2019), <https://lsse.indiana.edu/blog/guest-post-connecting-bar-exam-performance-to-the-law-student-experience/>.

5. Ajay K. Mehrotra & Shih-Chun Chien, *Guest Post: Empirical Sociolegal Research and the Use of LSSSE*

But I do want to return to the potential for individual schools. Shortly after I joined the LSSSE board, I took up the position of Dean at Southwestern Law School. The prior dean, in fact, had signed up for LSSSE knowing that I would be interested in the data. We used the data in the seven years of my deanship in several ways. In contrast to what I think is the case at most schools, everyone at Southwestern knew about LSSSE and trends in LSSSE results.

In particular, we examined how the law school was doing from the perspective of the students. The annual LSSSE scores on questions such as the overall law school experience and the quality of relationships with administrative staff allowed us to see improvement over time and variations in how particular offices, such as financial aid, were perceived. Each year we had three presentations of the LSSSE data in the fall: to the students, the faculty, and the staff. We emphasized different findings in different years. One emphasis was the experience of minorities and the extent of interaction between persons of different races and ethnicities. Another was our students' belief that the school emphasized memorization more than other law schools. We decided ultimately that memorization was not a problem given closed-book exams and other indicators of more engaged learning.

The finding that our students spent a considerable time commuting to the law school helped precipitate our decision to build student housing on the campus. Student housing has been a success at Southwestern in building community and engagement. With the help of the LSSSE staff, we also tested issues of engagement in relation to bar passage, seeing results similar to those now being reported from more systematic study. We also innovated with a first-year module on the legal profession and professionalism, and we tested its impact (imperfectly but usefully) through the answers on the questions related to professionalism on the survey. Whether from the course or other changes in our message, the students did report more sensitivity to issues of professionalism. We also joined with similar schools to add a module that particularly addressed the issues of independent and related law schools.

LSSSE was therefore a fundamental part of law school administration, and we found it to be very helpful on many issues. One reason was that we had a dean of student services, Robert Mena, who had just completed his Ed.D. and enjoyed working with the data and presenting the results. Another was that we encouraged the students to fill out the surveys during class time (if professors were willing). The very high response rates we received maximized the usefulness of the data. In the early days, Robert Mena and I were part of the group of LSSSE missionaries suggesting how schools could use the data in helpful ways.

As I said, I believe law schools have a way to go in maximizing the use of LSSSE data. The schools that are most active, as we were at Southwestern, are typically exceptions to the norm of underutilization of LSSSE data. The

Data, Law School Survey of Student Engagement (May 8, 2020), <https://lsse.indiana.edu/blog/guest-post-empirical-sociolegal-research-and-the-use-of-lsse-data/>. These insights are developed also in their contribution in this volume.

exceptions are explained by one of two people who take a special interest and gain the support of the administration. There is reason to think that the situation may change in favor of more utilization of the data..

Certainly law schools now are far more attuned to the importance of empirical research than in the past. The advent of Access Lex as a catalyst for research on law schools is also a very helpful development, and it is notable that Aaron Taylor, the executive director, came from LSSSE to Access Lex. Perhaps more importantly, the twin crises of the present period around the coronavirus and the murder of George Floyd will also focus more attention on what LSSSE data can show. Each crisis in different ways challenges law schools' traditional ways of doing business. Now online teaching has suddenly become a tool that law professors were forced to learn and now know how to do—after a long period of resistance by traditional law professors. The demonstrations and awakening around the systematic racism and inequality that are built into our legal system from top to bottom make these destructive characteristics of our legal system more likely to be addressed than in the past. That means law schools and the legal profession are more likely to confront these issues with serious changes than in the past. LSSSE data and analyses are already central to these issues, and LSSSE is very well positioned to address these issues in the aggregate and with respect to the problems of individual law schools.