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# AN EMPIRICAL STUDY OF THE UNIVERSITY OF WISCONSIN LAW SCHOOL SPECIAL ADMISSIONS PROGRAM: A PROGRESS REPORT

Daniel O. Bernstein

## I. INTRODUCTION

In 1869,<sup>1</sup> George L. Ruffin became the first black American law school graduate when he graduated from Harvard Law School. In 1900, there were only 728 black lawyers in the United States.<sup>2</sup> By 1970, there were 3,845 black lawyers which still only represented 1.3 percent of all lawyers.<sup>3</sup> While these figures illustrate the extremely low percentage of blacks admitted to the legal profession in the United States, the numbers and percentages of lawyers from other minority groups are equally low.<sup>4</sup> Among the major reasons for the paucity of minority lawyers have been the inability of minority group members to meet the traditional requirements for admission to the bar and the lack of funds to pursue a legal education. In addition, the legal profession has not traditionally been a financially viable career alternative.<sup>5</sup>

Until the turn of the century, lawyers were trained for the bar by participating in apprenticeship programs whereby the apprentice studied law under the supervision of a master.<sup>6</sup> Blacks and other minorities were excluded from such programs because of the low number of minorities who could serve as masters and the unwillingness of white lawyers to take on an apprentice from a minority group. Since these apprenticeship programs, which provided the only vehicle for admission to the bar, were not generally available to minority group members, the unavailability of these programs to minorities effectively excluded them from the legal profession.

The replacement of apprenticeship programs by law schools as the basis for qualification for the bar did not significantly increase the number of minority lawyers. Minorities traditionally come from the lower economic strata of society and, as a result, they were unable to afford the costs of

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1. Brown, *The Genesis of the Negro Lawyer in New England*, 22 NEGRO HISTORY BULL. 1971 (1958).

While Ruffin was the first black to receive legal training in an American law school, he was not the first black to be admitted to the bar. Before the Civil War, a few black males had been admitted to the bar under the apprenticeship system. See, Tollett, *Black Lawyers, Their Education and the Black Community*, 17 HOWARD L.J. 326, 328 (1972).

2. Tollet, *supra* note 1 at 332.

3. Edwards, *A New Role for the Black Law Graduate: A Reality or an Illusion?* 69 MICH. L.R. 1410 (1971).

4. According to 1970 U.S. census figures there were only 288 American Indians and 2410 Spanish surnamed lawyers in the United States. In 1979, there were 478,000 lawyers in the United States and only 2.5 percent were non-white. See U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, *EMPLOYMENT AND EARNINGS* 174 (1980).

5. Edwards, *supra* note 3 at 1417.

6. Tollet, *supra* note 1 at 327.

obtaining either undergraduate or law degrees. This factor was also compounded by the fact that the legal profession had not been lucrative for minorities; therefore, there was little incentive for those who could afford a legal education to invest the time or money necessary to complete law school. Minority lawyers who do complete law school and are admitted to the bar have been traditionally involved in areas of practice that are not as prestigious or as financially rewarding as those areas of practice which are available to white lawyers.<sup>7</sup> Historically, the bulk of black lawyers have been in the southern states. These black lawyers have been forced to restrict their practice to areas such as criminal law and domestic relations while the more lucrative and prestigious business-oriented specialties have not been made generally available to minorities.<sup>8</sup> Furthermore, minority lawyers have been restricted to a clientele composed of members of their own or other minority groups. At the same time, minority lawyers have not even received the full support from the minority community since many potential minority clients are still inclined to hire a white lawyer rather than trust the competence of minority lawyers.<sup>9</sup>

Even today, many minorities are not able to pursue a legal education. Many minority students who are fortunate enough to complete college are still unable to meet traditional requirements for admission to law school. Most law schools use, with varying weights, the law school admission test (LSAT) scores, undergraduate grade point average, and letters of recommendations as the basis for deciding which applicants will be admitted. The scores of minority applicants on the LSAT are lower than the scores for non-minority applicants.<sup>10</sup> Furthermore, many minority applicants do not have undergraduate grade point averages that are high enough to compensate for low LSAT scores. Therefore the extent to which law schools place a substantial reliance on LSAT scores and other traditional admissions criteria as the bases for admission, minority students are at a disadvantage in the admissions process.

As a result of the barriers faced by minorities who seek to enter the legal profession, the predominately black law schools such as Howard University have historically been the major training grounds for minority law graduates who seek admission to the bar.<sup>11</sup> It was not until the 1960's that the predominantly white law schools and the general legal community became sensitive to the need to increase the numbers of minority law gradu-

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7. Shuman, *A Black Lawyer's Study*, 16 HOWARD L.J. 255 (1970); Bell, *Black Students in White Law Schools: The Ordeal and the Opportunity*, 2 TOLEDO L.R. 539 (1970).

8. Edwards, *supra* note 3 at 1411.

9. Professor Shuman succinctly summarized the dilemma of the black lawyer as follows:

The most prominent factor obstructing Blacks from successful private practices is discrimination by large established White firms. This discrimination is being fought and slow headway is being made. But underlying this discrimination is social discrimination and client discrimination. The former is an artificial remnant of slavery and the latter is a remnant of the myth of white superiority. There is little that can be done directly to overcome these problems. The income potential of black lawyers is dependent on the affluence of the clients they attract. Discrimination by corporations, affluent institutions, and other wealthy clients prevents Black lawyers from establishing an economic base on which to build. Shuman, *supra* note 7 at 260.

10. See generally, Evans, *Applications and Admissions to ABA Accredited Law Schools: An Analysis of National Data for the Class Entering in the Fall of 1976*, 3 REPS. OF LSAC SPONSORED RESEARCH 551 (1977).

11. Tollet, *supra* note 1 at 331.

ates.<sup>12</sup> In the late 1960's, many law schools initiated special admissions programs to recruit potential minority law students. Under these programs, law schools decreased the importance of LSAT scores in the admissions equation and tried to develop a system or formula for examining other factors, such as grade point average, work experience, community involvement and motivation, to predict the ability of minority students to complete law school. Many programs also put together financial packages to lure minority students and to decrease the likelihood that minority law students would have to work to support themselves through law school.

These recent changes in the admission policies of law school during the past decade are now contributing to a significant increase in the number of minority law graduates.<sup>13</sup> This increase is attributable almost exclusively to recently instituted special admissions programs specifically designed to recruit and train minority lawyers.

The perceived goals of these special admissions programs are: first, to increase the total number of minority lawyers in the bar generally, and in the case of state-supported schools, at least, to increase the number of minority lawyers within the state; second, to increase the availability and quality of legal services to the minority lawyers in those specialties which historically have been dominated by nonminority practitioners; and third, to raise the socio-economic status of minorities by increasing the number of minorities who enter professions such as law.

For over ten years, the University of Wisconsin Law School has had an organized special admissions programs called the Legal Education Opportunities Program (LEO). However, little is known about the impact of the program on the careers of minority students who graduate from the Law School. The purpose of this study is to analyze the LEO Program to determine whether and to what extent the Program is achieving the aforementioned goals.

This paper will briefly describe the scope and methodology of the study in order to determine the impact of the program on both the law school experiences and career development of LEO Program graduates. Specifically the study will determine: (a) the structure of the LEO Program; (b) the perceptions of minority students about the law school and the LEO Program; and (c) the effect of the program on the careers of its graduates.

## II. SCOPE OF THE LEO STUDY

### A. *Structure of the LEO Program*

The first objective of the study will be to generally describe the structure of the LEO Program. In developing this general program description we will look primarily, but not exclusively, at two variables: admission policies

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12. See, Edwards, *supra* note at 1408, attributing the increase of black lawyers at the bar to a combination of the civil rights movement, militant black organizations, and the Kerner Commission Report.

13. Minority enrollments from academic year 1968-1969 to academic year 1976-1977 rose from 1,902 in a total law school enrollment of 68,779 to 9,524 in a total law school enrollment of 125,010 largely because law schools established affirmative action programs. See, memorandum from Millard Rudd to Executive Committee of the AALS entitled Revised Fall 1976 Minority Group Enrollment Statistics (Apr. 1, 1977).

and support services. In evaluating any special admissions program, such as LEO, it is necessary to determine who is admitted as a result of special procedure. Here we want to determine whether there are patterns in the admittees of the program in areas such as parents' socio-economic status, undergraduate education experience, performance on LSAT, and expressed preference for particular legal careers such as work with minority communities.

We also will examine trends within the minority admissions program and will attempt to explain any significant changes and developments in the program. For example, we will want to see to what extent the LEO Program was originally limited to blacks and the extent to which it has been expanded to include other racial minorities as well as whites<sup>14</sup> from disadvantaged backgrounds. There was higher percentage of blacks than other minority groups during the earlier years of the LEO Program.<sup>15</sup> This was probably due to the fact that the LEO Program, like other special admissions programs throughout the United States, was instituted primarily in response to unrest and pressure emanating from the black community. However, as other minority groups joined in the civil rights protests and began to exert social pressure, special admissions programs, such as LEO, were broadened to include other minority groups.<sup>16</sup> Furthermore, the University of Wisconsin, in broadening the scope of minority groups represented in the LEO Program, has been sensitive to other major minority groups within the state. Thus, Native Americans and Spanish-surnamed groups have, in later years, been represented in the LEO Program.<sup>17</sup>

Another related aspect of the admissions process that will be important is law school policy toward residence. State schools, such as Wisconsin, tend to give preference to their state residents. At the same time, Wisconsin is regarded as a national law school whose student body is composed of students from all over the United States. Consequently, the law school has not

14. While there were no white students to attend Wisconsin under the LEO Program during the years covered by this study, white students have been accepted into the LEO Program.

15.

TABLE I

RACIAL COMPOSITION OF ENTERING LEO STUDENTS (PERCENTAGE)\*

YEAR CLASS ENTERED LAW SCHOOL	BLACK	SPANISH/ CHICANO/ PUERTO RICAN	NATIVE AMERICAN
68 .....	83	17	—
69 .....	100	—	—
70 .....	73	—	27
71 .....	92	—	8
72 .....	65	24	12
73 .....	83	8	8
74 .....	76	18	6
75 .....	55	25	20
76 .....	55	30	15
77 .....	63	26	11

\* Figures may not always total 100 percent because of rounding-off.

16. *Id.*

17. *Id.*

limited its minority recruitment efforts solely to Wisconsin residents. In fact, because the Law School has not been completely successful in locating and recruiting minority students who are state residents for the LEO Program, the percentage of LEO students who are nonresidents is higher than for the first-year class as a whole. The entering first-year class is comprised of approximately twenty percent nonresidents but the percentage of nonresident LEO students have exceeded twenty percent a year.<sup>18</sup>

We have hypothesized that one of the goals of special admissions programs is to increase the number of minority lawyers in the state. Therefore, we want to know the extent to which minority graduates remain in Wisconsin and what variables impact on the LEO graduates' decision to remain in the state.

One unique variable which may affect a law graduate's decision to stay in Wisconsin is the fact that, under the Wisconsin diploma privilege, graduates of the Law School are admitted to practice law in the state without taking a bar examination. We hope to determine the impact that the diploma privilege has on whether minority graduates remain in Wisconsin as well as the impact of the privilege on overall career and job choices.

A major dimension of our evaluation of the Program structure will be to examine and analyze the kinds of support services offered to LEO students during law school. The LEO Program provides for special financial assistance, counseling, tutors, as well as career advice. While the level of financial assistance that a student receives can certainly impact on the student's academic performance, the experience at Wisconsin suggests that academic support services can have a major effect on students' academic careers.

Prior to 1974, the LEO Program was primarily geared toward giving only preferential admission and financial aid to minority students. Once students were admitted, they received little, if any, academic support from the Law School. In 1974, the Law School instituted the William H. Hastie Fellowships which were designed to provide counselors and tutors for the minority students and to formalize academic support services to help lower the attrition rate of minority students.<sup>19</sup> Since the inception of the Hastie Program, the academic performance of the LEO students has improved no-

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TABLE II  
RESIDENCY STATUS OF ENTERING LEO STUDENTS

YEAR ENTERED LAW SCHOOL	RESIDENT (PERCENTAGES)	NON-RESIDENT (PERCENTAGES)
1971 .....	25	75
1972 .....	65	35
1973 .....	50	50
1974 .....	71	29
1975 .....	65	35
1976 .....	74	26
1977 .....	76	24

19. See, Bernstine and Bernstine, *Improving the Marks of Minority Students*, 2 LEARNING AND THE LAW 10 (1976), where the authors discuss the impact of the William H. Hastie Fellowship Program on the academic Performance of LEO Students.

tably.<sup>20</sup> We will be ultimately interested in seeing if the type and level of academic support services and financial assistance also affect post-graduation careers.

### B. *The Minority Graduates' Perceptions About the LEO Program*

The second objective of this study will be to explore the LEO graduates' perceptions of the program and their recollections and reflections about their law school experience at Wisconsin. In this regard, we will try to obtain information about the social and working relationships that LEO students had with fellow law students, both minority and non-minority, as well as relationships with faculty members.

A recurring problem in any "special" program is the stigma that may be involved with participating in such a program. We hope to ascertain whether LEO students felt that they were treated differently by other law students and faculty members and how this difference in treatment, if any, was manifested.

We hope to ascertain whether the stigma, if any, which occurs from participation in the Program affects the academic performance of the LEO students. We also hope to determine whether the stigma continues after graduation from law school and affects the professional and social relationships of LEO students in the employment arena.

### C. *Assessing the Impact of the Program on Legal Careers of Minority Graduates*

The ultimate test of the special admissions program is how it affects the legal careers of the graduates. Here there are two "effects". In the first place, does the program increase the absolute number of minority lawyers? In evaluating this aspect of the program, all one can do is determine what percentage of special admittees graduate, what percentage of these graduates start a career in law, and what percentage of those who begin legal careers continue them. This data is important in determining whether the special admissions program is meeting the goal of channeling minority law graduates into legal careers.

A second dimension of career impact, and for us the more important, is whether the program channels students into particular types of legal careers. Many programs, including the Program at Wisconsin, have as formal or informal goals increasing the legal services available to minority and disadvantaged communities. We seek to determine if this occurs, and if its occurrence can be related to the Program. To do this we will study the career patterns of minority graduates.

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20. The major goal of the Hastie Support Services and Program has been to increase the academic performance of first-year LEO students in particular. From the years 1969-70 to 1973-74, less than fifty percent of students achieved averages of 77 (the minimum 'C' average) or above in their first semester. In the Fall semester of 1974, that figure jumped to eighty-eight percent, an increase of eighty-three percent over the previous Fall semester and an increase of more than 100 percent over the Fall semesters of 1969 through 1973. In the Spring semesters of 1974 and 1975, the percentages of LEO students above seventy-seven was seventy-eight percent, respectively. In the class that entered in the Fall 1974, eighty-eight percent of the LEO students had averages over seventy-seven at the end of their first year, a significant increase over prior years.

We will examine the graduates' experiences in the job market and try to determine what factors are important to graduates as they make their decisions about employment opportunities. We will also seek to determine the extent to which graduates are involved in *pro bono* activities involving the minority and disadvantaged communities.

### III. METHODOLOGY

The data sources for the study will be the law school records of individual students admitted under the special admissions program, and a questionnaire<sup>21</sup> to be completed by a sample of these graduates.

The law school records will be the major source for data on law graduates during their matriculation at law school. From these records we can determine academic success for each year in school and can also evaluate the pre-law school credentials of the graduates to be surveyed.

The law graduates' questionnaire will be the major source for data on the graduates' law school experiences and their career patterns since graduation. The questionnaire is divided into four basic sections. The first section deals with general background information about the graduates such as date of birth, state of residence prior to attending law school, educational background and parents' socioeconomic status. The second section is concerned with the graduate's law school experience. In this section of the questionnaire we inquire about how the graduate chose to attend the University of Wisconsin Law School, how the graduate's legal education was financed and the graduate's perceptions about his overall law school experience. Section three deals with the graduate's involvement in *pro bono* activities. Section four deals with the graduate's employment experiences since graduation from law school. In this latter section we seek to gain information about the graduate's job and salary history and experiences in job hunting. In addition, we hope to explore the graduate's perceptions of his job as it impacts on the minority community as well as his professional and social relationships with his minority and non-minority workers.

The law graduate questionnaires are being completed on the basis of a telephone interview with each graduate. We chose to conduct the interview by telephone to insure a greater accuracy of responses and to increase the overall response rate. We plan to interview approximately forty LEO students who graduated from Wisconsin between 1969 and 1974.<sup>22</sup>

The majority of questions asked during the interview are designed to evoke narrative responses from the interviewees. Some of these responses will be summarized in tabular form, however, a major portion of the study will be to quote verbatim the spontaneous responses of the interviewees to the questions posed.<sup>23</sup>

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21. See Appendix B.

22. Students who entered the law school after 1974 are not being interviewed because they have likely not had sufficient time to establish any significant employment history.

As of this writing nearly twenty LEO students have been interviewed. To date, all of the graduates who have been contacted about the survey have been more than anxious to participate in the study.

23. One of the problems with the narrative and sometimes lengthy responses is the difficulty of accurately recording the responses of the interviewees. We have tried to solve this problem by

#### IV. CONCLUSION

As outlined above, this study is designed to assess the effect that law school special admissions programs, such as the one at the University of Wisconsin, have had in increasing the number of lawyers from minority groups. The study, by reporting the employment patterns of LEO graduates, will be helpful in determining the kind and quality of legal services delivered to the minority community.

## AN ANALYSIS OF THE EMPLOYMENT PATTERNS OF MINORITY LAW GRADUATES

Gary A. Munneke

#### I. INTRODUCTION

This article will discuss the findings of the annual Employment Report of the National Association for Law Placement (NALP) as they relate to the employment patterns of black law school graduates. The NALP surveys provide a reliable and informative picture of legal employment in this country. The survey should prove useful in the development of in-depth instruments to measure career development among black attorneys. This article will present the background and methodology of the Employment Survey in order to aid in the interpretation of the data.

#### II. HISTORY

NALP is a young organization. It was founded in 1971 with a membership of thirty-five law schools, primarily from the northeast. Our present membership includes 164 law schools out of 171 law schools approved by the American Bar Association<sup>1</sup> as well as 250 bar associations and legal employers.<sup>2</sup> One of NALP's goals is the improvement of law placement and recruitment in the United States through research, cooperation, communication, and education, both within the organization and with other groups associated with the legal profession.

From NALP's inception members expressed the need to develop a comprehensive survey of law school graduates. Until then no such survey existed. Development of the Employment Report began in 1972 when representatives of NALP, the Association of American Law Schools, the

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tape-recording the interviews. So far, none of the interviewees have objected to the taping of the interviews. The tapes will be transcribed for future use in writing up the results of the study.

1. The Army Judge Advocate General School, the three Puerto Rican law schools, West Virginia, Wyoming, and Texas Southern law schools are not members at this time.

2. Excluded from membership are private placement agencies or executive search firms and law schools not approved by the American Bar Association.