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# The Rise of Two-Year Programs?: Transcript of Proceedings

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## THE RISE OF TWO-YEAR PROGRAMS?: TRANSCRIPT OF PROCEEDINGS

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Lisa Kloppenberg<sup>o</sup>

DEAN KLOPPENBERG: Thank you very much. Good morning. It's a true honor to be here today, and I want to tell the students that your faculty members and deans are highly regarded in legal education. They have been inspiring to the rest of us. So it's delightful to come see the beautiful facility I've heard about, and I want to thank the students in particular for all the logistical work that you did for today, all the publishing work that you will do after the fact, and, of course, getting up so early on a Saturday morning. Thank you very much. It's delightful to be here and talk a little bit about our program, about the University of Dayton School of Law and our "Lawyer as Problem Solver" program. Thank you.

The questions that I was asked to address on this panel were: how did the University of Dayton come to create an accelerated option; what was our timing; and why did we create one? To answer these inquiries, I thought I would start with some background about our overall curriculum reform effort.

I became dean at Dayton in 2001. For a private school in a highly competitive market, we are concerned about attracting strong students and preparing them well for the bar examination and the first few years of practice.

As we engaged in our strategic planning, we looked at law schools around the country, and we saw some of the very innovative things that were happening with capstones, with Southwestern's SCALE program, and with other experiments across legal education. We also heard about some concerns that helped us think about what we wanted to provide students, employers, and clients.

First, we heard about a lack of engagement. Even some of those very bright Law Review students by the third year were just—you can admit it—a little bit bored by the traditional Socratic method. And certainly I was. I

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loved school, but the third year was hard, and particularly for somebody who needed to get out there and earn money as well. It was a large undertaking to remain motivated in the classroom.

Second, we heard a lot from employers about the gap between learning in the classroom and the skills that the students needed on the job. And I know here at Southwestern you're exposed to experiential learning. We built that into our reforms at Dayton. We would have done it in any regard. Experiential learning was a strength we wanted to build on, and I will expand on that a little later.

Since we were also considering an accelerated option, we decided to build in more experiential learning because we thought in a short time frame the students are really going to have to get some experience. They will have fewer summers to clerk, so they will need some opportunity for externships and capstones, for real world engagement, to inform their legal education.

And we also wanted, with our "Lawyer as Problem Solver" curriculum, to help our graduates "hit the ground running." We got so tired of using that phrase at Dayton, but we kept hearing it from employers, from prospective students, and all the groups that we surveyed. We wanted to give our students an edge.

So why create an accelerated option? First, we thought it might help keep some students engaged during the entire period of their studies. Second, it saves them living costs and gets them back into the job market a year earlier. We wanted to draw highly motivated students. Of course, every law school wants the most highly motivated students, and we want *all* of our students to be highly motivated. But we thought that this accelerated option might attract some people who are really motivated in a way that shows both in their legal studies and in the workplace.

In fact, as we started to think about this and talk with our advisory council members and the leaders of firms, guess who had finished law school in two-and-a-half years? A lot of the managing partners. They came out of the military or other experiences, and finished school quickly because they had family obligations or financial concerns. So we saw there was a model for this highly motivated student. Additionally, we wanted to draw students with work and life experience. I know Northwestern Law School has long put a primacy on this. We also wanted to attract some of those students who had graduate degrees or who had strong work experience.

Finally, we are seeking a diverse group, and that's not only diverse in race and gender, although that is important, but in terms of academic majors, and work backgrounds. Those are some actual students we had at

Dayton. They graduated a couple of years ago. They were a mix of our accelerated students and traditional students. As I explain later, after the first two semesters everybody mixes in, and they really did work together there on student government. And they were just a wonderful group.

Our summer cohorts—the people who start on the fast track in the summer—are often small. They have consisted of about thirty-five to forty students. One summer, for example, the thirty-eight students came with twenty-six different academic majors. So you see how rich the cohorts can be, what a great population. They really did bring leadership and maturity to our student body as a whole.

So, let me tell you a little bit now about our vision for training “problem solvers” at Dayton. Dayton has always been a front of innovation. It’s the home of the Wright brothers. At one time, the most patent holders in the world per capita lived in Dayton. Some people have attributed it to the confluence of four rivers in Dayton. I don’t know what it is, but it is unique. The Wright-Patterson Air Force Base is there. It’s an area of research, engineering schools, a lot of technology development, and so we have a significant number of faculty members who are not only interested in intellectual property, and those kinds of innovations, but also in terms of teaching reforms. It has been a really good place to experiment.

Second, it’s the Midwest so we have to distinguish ourselves. We’re in the Midwest and we are not Chicago. So we’ve got to attract some students from sunny Southern California and elsewhere to Dayton. And then I think we have a little bit of Midwestern sensibility. We are pretty pragmatic. We know that we are a regional law school. Yes, we want to move up in those rankings and build reputation, but most of our students are going to smaller firms settings. The top ten to fifteen percent can work for the Am Law 200 firms, as at many American law schools, and we have been growing the number of those types of placements carefully in the recent years. But most of our students will go out and work for small firms, prosecutor’s offices, legal aid, public defenders, a wide variety of jobs, mostly in the region, although about half our students come from out of state and half our students are placed out of state. So we have alumni populations we really use to build our network, in Chicago, Florida, D.C., New York, and a few in the West.

Thus, we recruit broadly and place broadly and really have to distinguish ourselves at Dayton. And I think it ties back to what Dean Garth said in today’s introduction, in terms of reform in legal education, as being one way for a law school to potentially distinguish itself and attract strong students.

We are also a Catholic and Marianist University. Now, I had never heard of the Marianists before I went to Dayton, even though I have had some Catholic education. It's a small order. There are three universities, and they are real proponents of social justice, in getting their hands dirty as they help others. And so they will often joke that the Jesuits talk about social justice and the Marianists wipe the toilets. So the Marianists are concerned about doing things for the community and on the ground. We tell our students that they are each so talented to be in law school. So, of course, they want to take care of their families, earn a good living, but we ask what they are going to do to give back to their community, too.

The faculty, as I said, has always believed in training students to be complete professionals. We want them to be skilled counselors who can help clients exercise good judgment, who at least think about the ethical questions. We can't 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.

There is a Marianist brother at Dayton who became president of the University when he was thirty-nine years old. Brother Ray Fitz was president for twenty-three years and he is an amazing man. He's tireless and he runs the Fitz Center for Leadership in Community. So we have been trying to get the law students out there working with Brother Ray and the public administration students, engineers, and those who are actually dealing with community problems. How can lawyers help in that? Whether you do it pro bono, or you do it for your clients who are now looking for infrastructure money, lawyers can contribute to community reforms. That was our vision.

We enacted the curricular reforms in 2005, and they really fit in with some of the things that are talked about in the Best Practices for Legal Education, the Clinical Legal Education Association (CLEA) report, as well as the Carnegie report. The Carnegie report talks about the three apprenticeships or types of knowledge lawyers need: academic knowledge, lawyering skills, and values. We have begun to speak of the three as apprenticeships of the head, the hands, and the heart, because at Dayton, like at many Catholic universities and religiously affiliated universities, there's an idea of training the whole person. Lawyers have brains, but we also have other lawyering skills and, finally, the apprenticeship of the heart really fits in with some of the academic content around professionalism, ethics and values training.

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. We felt that the content of criminal law, property, torts, civil procedure, those basic doctrinal topics, as well as the skill of thinking like a lawyer in terms of reading, analytical thinking, research and writing, were really important to instill early in their legal studies.

The second area that the Carnegie work focuses on is the apprenticeship of the hands, or lawyering skills. Hands-on experiential learning fits in this category. This has always been one of our strengths. I will get back to that, but we have really strong legal research and writing program, and we've always had strong clinics and externships. 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 have gone out and learned a little bit about what district attorneys do, and what it's like to work for a client in a law firm or a legal aid context. It informs how students learn and apply knowledge in subsequent classes. For some students not at the top of the class, it heartens them. They respond well, sometimes 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." So I think the experiential learning helps sustain some of our students as well.

Finally, the last apprenticeship is of the heart—enhancing ethics, values, and professionalism. I was mentioning to Professor Karen Smith before, I think law schools teach this apprenticeship poorly. At least, it's the area that's most difficult for us. There are a lot of good reasons. Few of us are trained ethicists. I see Professor Carrie Menkel-Meadow in attendance, who has always done such wonderful work in ADR and ethics. Also, I think there's a little bit of hesitancy on the part of law faculty members: how can we tell all of you what's right? What makes me, as a law school professor, the expert on ethics?

We have Model Rules, of course, and I have not taught ethics for quite a few years. Those classes are incredibly frustrating for students and some of us professors. I see those rules as the lowest common denominator in terms of ethics and morality. Students must learn them for the MPRE, but they are not very inspiring, right? They often do not leave students with much to take with them as they form professional identity, and that's what Carnegie is talking about really: how do we help students form a professional identity? So with the third type of knowledge, we are trying to teach about ethics, professionalism, and values, including social justice. I feel, personally at least, at a Catholic school it's a little easier to talk about

these subjects. But you don't have to be Catholic, these values are everywhere. What's the goal of the lawyer—in serving a client, doing justice, and promoting justice? That's the third type of knowledge lawyers need.

I will come back to those apprenticeships, but let's now look at the central features of our "Lawyer as Problem Solver" program. Everybody takes the bar courses. Now, this might not be necessary at all law schools or for all law students, but again, Ohio is competitive. Ohio State, Case, and others are now worried about bar examination preparation. We felt we would have recruiting and placement advantages if our students did well on the bar, and that's been very helpful. Whether it's requiring the bar courses or the extra support we have, such as the "Road to Bar Passage" program, our students have performed well. The students who work with our "Road to Bar Passage" program and completed the new curriculum have done very, very well on the bar exam thus far.

Then there are elective tracks, which are like minors or concentrations. The J.D. is the major and then we offer three tracks. The idea is we try to give breadth and depth. The employers will tell us that they don't want somebody who has only taken advanced theoretical seminars in law school and neglected basic courses. Again, we find a gap between legal education and legal employers. Employers often want students who really have some grounding in the basic areas of law that they might run into in practice. They want well-rounded lawyers with basic knowledge plus an ability to develop knowledge beyond what students can develop in a survey course. They want students to learn from experiences that mimic practice. I know you do this at Southwestern with some of your coursework.

So, we have capstone courses where, by the fourth, fifth, and sixth semesters, every student has to take a clinical (live client) or capstone course. We offer civil and criminal clinic opportunities, and a wide variety of subject matters in capstones to match students' tracks. The capstone courses allow students to integrate different areas of legal knowledge, satisfy their upper-level writing requirement for the ABA, and produce some documents that they can take on a job interview. Those have been wonderful. Again, we've just been doing these in new form for three years, but the response to capstones has been very positive. We have alumni who graduated last year telling us, "I got to go on that deposition," or "I got to do that trial, because I had deposed a medical expert," or "I argued before a federal judge in a mock summary judgment." So these courses can really pay off in terms of giving the students some confidence in those early jobs and giving them a little real exposure to the world of lawyering.

One of my favorite capstones is advanced commercial real estate. Students have to learn zoning, environmental issues, financial issues, property law, and then I do come in and help a little bit with a negotiation exercise. They negotiate with a lawyer who's done this practice for twenty-five years, and he emulates a zoning official. So it's just fun. These opportunities are all across the curriculum—patent licensing, patent prosecution, all kinds of areas, medical malpractice, federal, and civil rights. The idea is that students really get some hands-on practice with some experiences they might encounter early in law practice.

We also thought flexibility was important for students. They are millennials and we need to give them some control. Dayton students have flexibility, in terms of the timing of their start date (summer or fall), the timing of their graduation (December or May), the pace of their work, as well as some training choices in terms of tracks, externships, capstones, and intra-sessions.

The school has always had strength in advocacy skills. I was selected as dean in part, I think, because of my work with Judge Dorothy Wright Nelson and my interest in ADR. The faculty members were hearing from me that we needed to do more ADR, and they were also hearing it from the employers and the graduates. We feel really well versed in advocacy, less so in dispute resolution, so we've expanded that area. Every student now takes an introductory ADR course at Dayton. I had been frustrated because I had seen that, even at schools with very good ADR programs, maybe twenty-five percent of the students were exposed to an ADR class. So we have less breadth than law schools that have really big ADR programs, but we ask that every student be exposed to more ADR than you get in civil procedure, and we think that it is going to be very helpful in preparing them for the future in practice. Frankly, it's a great fit with our Marianist mission as well.

Second, we have a personal and transactional law area which is a track for students not interested in intellectual property or advocacy and dispute resolution. These students might be thinking more of a small practice or seeking transactional training. We don't have a lot of students going to large New York law firms doing corporate work or securities, so it's really a wills and estates, family law, and transactional practice. Again, the tracks are not perfect but we tried to capture with them some of Dayton Law's strengths and students' job market realities. Where should various courses fit in the track system? That is a subject of regular debate and constant refinement, but we try to offer areas of practice appealing to different students.

Then we have an intellectual property program. It was one of the first in the country, so we offer a lot of law and technology courses. We have one of the world's experts in cybercrime (now it is the related aspects of cyberterror and cybersecurity that present pressing legal dilemmas). We have several faculty members who work with entertainment law and all aspects of IP. We have graduates around the world in the field of law and technology, and really strong faculty members, so we wanted to make sure that there was the ability for students to pursue this knowledge in a track, too.

Our intra-sessions are part of the curricular reform. Everyone can take from two to six intra-sessions. They are generally one-week courses for one credit each. A number of law schools are doing this. Now we are beginning to experiment—some professors want to teach one and spread it out over three or four weeks, and we are doing that. I just love the faculty's creativity with intra-sessions. It allows students to experience some of those cutting-edge topics that are interesting without having to devote three or four units to it. But some of my favorites are human trafficking, the Nuremberg Trials, homelessness, and ADR in Second Life. I'm preparing one on comparative constitutionalism with a professor from political science, so it's a lot of fun. With intra-sessions, the faculty gets to explore some topics of interest, and the students get to experiment a little bit outside their tracks and basic core courses.

At Dayton, we offer extensive experiential learning and we do so in a number of ways. I know that Southwestern does this as well and that Harriet Rolnick will address this topic. One of our greatest assets in this regard is our legal research and writing program, called the "Legal Profession Program." It addresses the second and third Carnegie apprenticeships by teaching foundational lawyering skills and by focusing on the role of the lawyer, as we try to build some ethical problems into the research and writing curriculum.

Next, every student completes an externship of four units. They are all over the place: with legal aid, county prosecutors, public defenders, the Cincinnati Reds, and other really fun ones. Some of the students spend the summer in Alaska, Puerto Rico, and that has been wonderful. Classroom and reflection components are included. We looked at what medical schools do. Students go through the medical trials and clinics and get a 360-degree review. They hear from supervisors and patients, they get different perspectives reviewing their work. So our students hear from the faculty externship supervisor and the field supervisors, who rate the student's performance. The students also provide feedback on the placement, supervisor, and course. It's a lot better than getting it on the first job;

students get to make some mistakes, and talk to someone about this. The reviews have been outstanding from the employers and the students. The students don't like certain aspects of the course, like having to go to class as part of this. Or they may want to start an externship a semester earlier. So, there have been some complaints, but they overwhelmingly like the fact that they are doing externships. Particularly after they have done one, they come back to class with a really different attitude and, I think, they learn more.

Finally, in terms of experiential learning, we offer competency testing. Every student must pass a one-unit intra-session where they encounter about six scenarios. We get these scenarios from our alumni. These include interviewing a client and telling the clients they don't really have a case. It's one of the hardest things to do as a young lawyer—to tell the client they don't have a case. So they go through about six scenarios. Again, this is an area where we try to build in some ethical problems and issues. Lawyers and actors are used to interact with the students in order, again, to provide them feedback from multiple perspectives.

The apprenticeship of the heart—we try to do that through orientation, pro bono opportunities, professional responsibility, and the intra-sessions. We try to do a lot of end-of-life values, business ethics, and all kinds of issues across the political spectrum related to ethics or values. Again, these courses are only one credit, but they offer exposure. Faculty members have developed a very interesting course for first-year students on developing professional identity.

As to our pro bono program, it's all voluntary. About twenty percent of our students earn the exceptional honors, which means they devote more than fifty hours during law school to pro bono work, and our accelerated students have done those.

I know Harriet Rolnick wants me to talk today on the five-semester option. We offer a program with the same exact curriculum that students can do in five semesters or six. They can start in the summer or the fall. We have about a fifth to a quarter of our students doing the faster track. Two-thirds of those started in the summer. If you start in the summer (in May), you can graduate in two calendar years. So you save a year in living expenses and you get back into the workforce earlier.

Our students in the five-semester can also do Law Review. We've had some Law Review editors even. You can't have two semesters of being an editor, but you can do one and we've had some articles editors and executive editors. Five-semester students have participated in moot court, mock trial, academic honors, pro bono, and student government. I'm surprised how many of them, even with families and commutes, get

involved in student government. And many of them like our summer study abroad, particularly the University's Sorrento program, probably because it's Sorrento, but it's also two weeks so they can do that and take a course, or take an externship, or work after that. So, they have a lot of opportunities. The biggest drawback is they only have one summer to get law firm experience.

Now, of course, after the first two semesters, they can work part time during the school year, and many do. We find that this summer start option particularly attracts an older group of students, students with families, students with work experience. They are very entrepreneurial. Some come in knowing what they want to do. A few have gone to the big firms, but, for the most part, they already have an idea—I want to live in Columbus and serve the Muslim doctors in that area, or my spouse is in medical school, we are going to wait to see where the residency takes us. They are a little bit different in that they are further along in their life plans.

They also can slow down. They can get off the accelerated option if they decide they want to, if they have an opportunity to clerk for one of the big firms that only has an official, second-year summer program. One or two have slowed down, but one or two have gotten these jobs without slowing down, too. Again, because they bring life experience, they do bring something that's helpful to a firm, that's unique in dealing with international clients or perhaps bringing in an IP background, or something like that.

Our students pay per credit rather than per semester, so there is no surcharge for taking a summer class. We find that a number of them have set their own pace after the first two heavy semesters. Eighty-eighty percent of our fast-track students have taken a summer course. It might be an online two-unit course; it might be an externship; it might be a study abroad; but they lighten their load and make it flexible.

So who is this option attracting? As I mentioned, it suits non-traditional students. And let me give you a few statistics here. For example, our summer starters are about two to four years older than our traditional students. So, last class, the summer cohort was twenty-eight. The incoming fall class was twenty-four. They are more likely to be married, many have children. Two out of the three years, the percentage of minority enrollment in the summer was higher than that in our fall class. In the first two years, the percentage of men in the summer was higher than men in the fall class. In all three years, the summer students have brought more advanced degrees. So, for example, in 2008, 21% of our summer starters held advanced degrees. In the fall class, 2.3% did.

We have built in some safeguards. You have to maintain a 2.3 GPA. We go through individual advising. Only one person has had to slow down for academic reasons in three years.

The attrition rate is really low. Maybe there is just less incentive to transfer because students have already completed three-fifths of their legal studies by the time they have finished their first year of studies in May.

The thing the students like best, in addition to the money and time saved, is the fact that it's a small cohort. They start with just forty other students. So they really get to know their professors that summer. They feel like they own the building. It's just them and the poor people studying for the bar. They love the fact that it's a very different feel with forty students versus 160 or 180 in the fall.

Do the outcomes differ? Again, it's so early for us. But the attrition is lower. Because the accelerated students mix in with everybody else by their third semester, we have GPA data. The GPA is 2.99 for traditional students and 2.96 for accelerated, so very close. Academic honors and pro bono honors, we've actually had, percentage-wise, more of the accelerated students than the traditional students per academic and pro bono honors. So they really make time to do things beyond their classes. The bar pass results—again, this is so early, but the data is very comparable.

We are gathering employment data now, but what we are hearing from students so far is very comparable between our five and six-semester students. I think it is a combination of two things: we had a very small class to start, and we had very strong bar results. Although it's a tough market now for everybody, more than ninety-three percent of our 2008 graduates were employed nine months after graduation. Getting a job today takes a combination of showing initiative, academic excellence, background, and prior experience, as well as interviewing skills and fit. But our five-semester students are highly motivated, so we were delighted to see very positive results for the first five-semester graduates, comparable to our six-semester graduates.

It is frustrating to get the word out about our accelerated option; we are still educating employers about this. I'm glad that Northwestern is following Southwestern and Dayton. It's going to make it easier. The biggest thing we've been able to do is draw some of those non-traditional students and give them a choice. So it helps to distinguish us. Our yield is very high in the summer program. The applicant pool is much smaller than our fall pool, but people self-select so our yield is very high with the summer.

Finally, what is the likely impact of the economy on our accelerated program? I really don't know. It's such a tough time. More people are

losing their jobs, but are they going to want to undertake the debt of the law school? And I spoke with some of our students who are about to graduate in the two-year program. Many of them, again, have these jobs, they come from Utah and Pittsburgh, and all over the place, and they are saying, at least I can get my family started. I can be done with the bar and into my job by August; it still saves me a year. It's a tough market, but those are not the people who can afford to hang out in school for three years anyway, and two summers, and all of that. So for them, they are still grateful.

Thank you.