

The LSAT, Law School Exams, and Meritocracy: The Surprising and Undertheorized Role of Test- Taking Speed

William D. Henderson*

Within the field of psychometrics, it is widely acknowledged that test-taking speed and reasoning ability are separate abilities with little or no correlation to each other. The LSAT is a univariate test designed to measure reasoning ability. Test-taking speed is assumed to be an ancillary variable with a negligible effect on candidate scores. This Article explores the possibility that test-taking speed is a variable common to both the LSAT and actual law school exams. This commonality is important because it may serve to increase the predictive validity of the LSAT. The author obtained data from a national and a regional law school and followed the methodology of a typical LSAT validity study, with one important exception: student performance was disaggregated into three distinct testing methods with varying degrees of time pressure: (1) in-class exams, (2) take-home exams, and (3) papers. Consistent with the hypothesis, the data showed that the LSAT was a relatively robust predictor of in-class exams and a relatively weak predictor of take-home exams and papers. In contrast, undergraduate GPA (UGPA) was a relatively stable predictor of all three testing methods.

The major implication of this study is that the current emphasis on time-pressured law school exams increases the relative importance of the LSAT as an admission criterion. Further, because the performance gap between white and minority students tends to be larger on the LSAT than UGPA (the other important numerical admissions criteria), heavy reliance on time-pressured law school exams is likely to have the indirect effect of making it more difficult for

* Associate Professor of Law, Indiana University School of Law—Bloomington. I would like to thank the Law School Admission Council (LSAC), which provided funding for this project. However, the opinions and conclusions contained in this Article are those of the author and do not necessarily reflect the position or policy of the LSAC. Deborah L. Schnipke of Virtual Psychometrics, LLC, provided invaluable assistance in the preparation and analysis of the data set. Michael Heise, William Kidder, James Lindgren, James Gillespie, Emile Karafiol, Ken Dauschmidt, David Snyder, Laura Beth Nielsen, Jeffrey Stake, Matt Hinerfeld, and Eugene Kontrovich provided valuable comments at various stages of this project. The analysis also benefited from workshops at the American Bar Foundation (ABF) and Chicago-Kent College of Law. I would like to thank Harold Krent and Katherine Baker, who made it possible for me to work full-time on this project during my visiting appointment at Chicago-Kent. Finally, I would also like to thank the deans, registrars, and various support staff at the two law schools that participated in this study. Although they remain anonymous, *see infra* note 113, they were an indispensable part of making this project possible.

minority students to be admitted through the regular admissions process. The findings of this study also suggest that when speed is used as a variable on law school exams, the type of testing method, independent of knowledge and preparation, can change the ordering (i.e., relative grades) of individual test-takers. The current emphasis on time-pressured law school exams, therefore, may skew measures of merit in ways that have little theoretical connection to the actual practice of law. Finally, this study found some preliminary evidence that the performance gap between white and minority students may be smaller on less time-pressured testing methods, including blind-graded, take-home exams. Definitive evidence on this issue will require a larger sample size.

I.	Introduction.....	977
II.	Background on Speed and Reasoning Ability	983
	A. Research Question	984
	B. Literature Review.....	990
III.	Sample and Methodology	1000
	A. Sample	1000
	B. Analysis Methods.....	1005
IV.	Results.....	1008
	A. Phase 1: LSAT and UGPA Correlation Coefficients by Testing Method.....	1008
	1. <i>Phase 1 Results, National Law School Sample</i>	1011
	2. <i>Phase 1 Results, Regional Law School Sample</i>	1012
	3. <i>Comparison of National and Regional Sample</i>	1013
	4. <i>Summary of Phase 1 Results</i>	1015
	B. Phase 2: Constructing and Testing the Disaggregated Model	1015
	1. <i>Phase 2 Results, National Law School</i>	1015
	2. <i>Phase 2 Results, Regional Law School</i>	1018
	3. <i>Comparison of National and Regional Samples</i>	1022
	4. <i>Summary of Phase 2 Results</i>	1023
	C. Additional Findings Related to Test-Taking Speed.....	1024
	1. <i>Differential Between In-Class Exams and Other Testing Methods</i>	1024
	2. <i>Relationship Between LSAT and Page Length of Exam</i>	1025
	3. <i>Evidence Based on Age</i>	1026
	4. <i>Evidence Based on Ethnicity</i>	1027
V.	Implications of this Study	1030
	A. Predictive Validity on the LSAT: The Relationship Between Speed and Range Restriction	1031
	B. “Speed” and the Legal Profession.....	1034
	C. Beyond the LSAT and UGPA: A Preliminary Theory for Predicting Law School Performance	1039

1. <i>In-Class Exams</i>	1043
2. <i>Take-Home Exams</i>	1043
3. <i>Required Legal Writing Assignments</i>	1043
4. <i>Papers in Seminars and Elective Courses</i>	1044
VI. Conclusion	1044
VII. Appendices	1046

I. Introduction

The Law School Admission Test (LSAT) is a cultural lightning rod. While some prominent scholars attack the test as a poor predictor of law school success that is biased in favor of the privileged,¹ others praise it as a valuable tool for social mobility.² With each admissions season, the LSAT also creates a raft of winners and losers, as acceptance letters³ and scholarship money⁴ often turn on relatively small differences in test scores. Integrally related to this process is the ranking of law schools by *U.S. News & World Report*.⁵ Despite a methodology that attempts to consider a variety of substantive factors, including faculty reputation, library resources, faculty-student ratios, and bar passage, these rankings move in virtual lockstep with a school's median LSAT score.⁶ Because students, legal employers, and

1. See, e.g., Richard Delgado, *Official Elitism or Institutional Self-Interest? 10 Reasons Why the UC-Davis Should Abandon the LSAT (and Why Other Good Law Schools Should Follow Suit)*, 34 U.C. DAVIS L. REV. 593, 600–02 (2001) (arguing for the abolition of the LSAT because the LSAT explains only 16 percent of the variation in first-year grades and noting the high correlation between family income and LSAT scores); Lani Guinier, *Race Shows the Way*, LEGAL TIMES, Sept. 16, 2002, at 58, 59 (noting that the LSAT is only “9 percent better than random in predicting first-year law school grades” and that “excessively weighting the LSAT” is the true crux of the Michigan affirmative action case). *But see infra* note 53 (referring to validity studies showing the LSAT to be the best single predictor of law school grades).

2. *Wrong Way*, DAILY TEXAN, Sept. 28, 1998, at 4 (citing the dean of The University of Texas School of Law for the position that the LSAT gives students who were forced to balance a job and studies during college a “second chance” to demonstrate their potential).

3. See William C. Kidder, *The Rise of Testocracy: An Essay on the LSAT, Conventional Wisdom, and the Dismantling of Diversity*, 9 TEX. J. WOMEN & L. 167, 193 (2000) (comparing the dramatic dropoffs in admissions rates at four University of California law schools based on a 95 point drop in LSAT scores).

4. See, e.g., Jay Conison, *Financial Management of the Law School: Costs, Resources, and Competition*, 34 U. TOL. L. REV. 37, 37–38 (2002) (stating, as dean of Valparaiso University School of Law, that “many more schools are investing far more money—through scholarships and other means—to recruit students with high LSATs”); Howard O. Hunter, *Thoughts on Being a Dean*, 31 U. TOL. L. REV. 641, 643 (2000) (noting, as dean of Emory University School of Law, that LSATs “tie in closely with scholarships”).

5. *Best Graduate Schools: Schools of Law*, U.S. NEWS & WORLD REP, Apr. 15, 2002, at 64–68.

6. STEPHEN P. KLEIN, PH.D. & LAURA HAMILTON, PH.D., THE VALIDITY OF THE U.S. NEWS AND WORLD REPORT RANKINGS OF ABA LAW SCHOOLS 12 available at <http://www.aals.org/validity.html> (last visited Jan. 21, 2004) (arguing that “90% of the overall differences in ranks among schools can be explained solely by the median LSAT score of their entering classes”).