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## **SPIRITUALITY AND ACADEMIC PERFORMANCE AT A CATHOLIC LAW SCHOOL: AN EMPIRICAL STUDY**

SCOTT A. TAYLOR\*

*Catholic educational institutions can and indeed must carry out a precious formative service, dedicating themselves in a particular way to the inculturation of the Christian message, that is to say, to the productive encounter between the Gospel and the various branches of knowledge.<sup>1</sup>*

*At the core of the Christian Catholic faith is the belief that the human person was created in the image of God. God became incarnate in the person of Jesus Christ. In so doing, the incarnation gave an added dimension to human dignity: the human person would never be the same. A new challenge had been given, namely, to create a society worthy of redeemed men and women, one in which the human potential could be fully realized. To the extent that a university enables people to become fully alive, to activate all their potential, to develop all their God-given talents, to that extent it furthers the purpose for which God created the world and became incarnate.<sup>2</sup>*

*The two-thousand-year-old Catholic intellectual tradition . . . has retained its spiritual and intellectual vibrancy and can therefore offer compelling insights into the most serious issues facing the United States today. Rooted in faith and reason, revelation and*

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1. PONTIFICAL COUNCIL FOR JUSTICE AND PEACE (THE VATICAN), COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH ¶ 532 (2004).

2. TERRENCE J. MURPHY, A CATHOLIC UNIVERSITY: VISION AND OPPORTUNITIES 16-17 (2001).

*natural law, these insights transcend the current ideological battle lines drawn by the left and the right.*<sup>3</sup>

*We need a Catholic law school. We need a school that does more than claim to teach ethics and morals; all law schools today claim to teach ethics and morals. We need a school that does more than harken back to the “Catholic intellectual tradition”; all law schools have roots in the Catholic intellectual tradition, which, for centuries, has been inseparable from the Western intellectual tradition. If a law school is going to be truly Catholic—if it is going to make a real difference in the lives of its students—then it must be willing to do many things that other law schools either cannot or will not do. Most importantly, a Catholic law school must be a community of faith.*<sup>4</sup>

## INTRODUCTION

Ordinarily, I would not start an article with a quote, much less four quotes. However, these quotes reflect the importance of God, faith, and Catholic identity at the University of St. Thomas School of Law. The year after the Law School opened, I joined its faculty in the fall of 2002 to teach the required federal income tax course and some electives. I was drawn to its faith-based mission and its emphasis on promoting social justice. As a non-Catholic, I understood that I would be in an environment where Catholic social teaching and the Catholic intellectual tradition would be two important threads in the fabric of my classes and in the broader intellectual life of the Law School. I looked forward to connecting with students in such an environment because of my successful experiences in encouraging law students and

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3. Michael A. Scaperlanda & Teresa Stanton Collett, *Introduction*, in *RECOVERING SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW 9* (Michael A. Scaperlanda & Teresa Stanton Collett eds., 2007).

4. Patrick J. Schiltz, *Commemoration of the Fifth Anniversary of the Decision to Open the University of St. Thomas School of Law*, 1 U. ST. THOMAS L.J. 1041, 1044 (2004) (reprinting the author's reflections presented at a Red Mass on September 26, 1999, at the University of St. Thomas). A Red Mass is celebrated in the fall of each year to pray for the Holy Spirit to guide members of the legal profession. Rooted in thirteenth-century France, the Red Mass refers to the red vestments worn by priests to symbolize the fire of the Holy Spirit. *See id.* at 1041 n.1.

staff to rely on their spiritual identities to help them through difficult and stressful times. In those individual instances, I discovered that a person's faith could be a source of strength and comfort. This was my personal context at the time I started teaching at St. Thomas after having taught law for twenty years at the University of New Mexico.

The University of St. Thomas School of Law (Minnesota, USA) is a relatively new law school founded in 2001.<sup>5</sup> The Law School remains serious about faith and its Catholic identity.<sup>6</sup> Faith, especially with a connotation focusing on God and on Catholicism, has a lot to do with the University of St. Thomas School of Law, and this importance of faith is reflected in the official mission statement: "The University of St. Thomas School of Law, as a Catholic law school, is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice."<sup>7</sup>

Given this context of a seriously faith-based Catholic law school, I decided to study the connection, if any, between faith and academic performance. My hypothesis was quite simple: students who have a strong faith identity should do better than expected at a faith-based law school when compared to students with a weaker faith identity. I based my hypothesis on that branch of the science of learning that has found a potential connection between learning and a student's positive motivation and emotion.<sup>8</sup> I assumed that an individual student with a

5. See Lucy Quinlivan, *Two Law Schools Seek to Fill Gaps; One has Religion; Other Has Weekend Program*, ST. PAUL PIONEER PRESS, Aug. 20, 2001, at A1 (describing the faith emphasis at the University of St. Thomas School of Law and noting its opening on August 20, 2001).

6. See Katherine Kersten, *Battle for Soul of St. Thomas Takes a Turn for the Worse*, MINNEAPOLIS STAR TRIB., Dec. 6, 2007, <http://ww3.startribune.com/kerstenblog/?p=325> (noting, in the context of a controversy involving the Archbishop's role on the University's board of trustees, that the Law School still maintains "a strong Catholic identity").

7. UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, 2007-2008 VIEWBOOK 23.

8. See, e.g., Alice H. Eagly & Shelly Chaiken, *Attitude Research in the 21<sup>st</sup> Century: The Current State of Knowledge*, in HANDBOOK OF ATTITUDES, 748, 757-58 (Delores Albarracín, Blaid T. Johnson & Mark P. Zanna eds., 2005) (observing that memory and learning are enhanced when information is congruent or incongruent with existing attitudes); Elizabeth A. Linnenbrink & Paul R. Pintrich, *Role of Affect in Cognitive Processing in Academic Contexts*, in MOTIVATION, EMOTION, AND COGNITION 78 (David Yun Dai & Robert J. Sternberg eds., 2004) (summarizing research that suggests that positive emotion (mood) in students enhances learning).

strong faith identity would do better than expected at a law school that integrates faith into its curriculum. Much to my surprise, the data from my study showed a negative correlation between a strong spirituality index and expected academic performance. I had anticipated a positive correlation.

In part I of this article I look briefly at the scholarly literature that explores faith and academic performance. To place the discussion in its appropriate context, I use part II to provide a brief history and description of the University of St. Thomas and its School of Law. In part III, the discussion turns to the empirical study and the results, concluding that a strong spiritual identity correlates negatively with expected academic performance. In part IV, I offer possible explanations for this negative correlation and consider additional questions for future surveys that could further test the validity of these explanations.

## I. OTHER STUDIES

Connecting faith to academic performance in higher education has not been the subject of significant academic research.<sup>9</sup> No studies

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9. The religious identity of students within the context of higher education has been the subject of some interesting recent work. *See, e.g.*, Larry A. Braskamp, *The Religious and Spiritual Journey of College Students*, in *THE AMERICAN UNIVERSITY IN A POSTSECULAR AGE: RELIGION AND HIGHER EDUCATION* 117, 117-34 (Douglas Jacobsen & Rhonda Jacobsen eds., 2008) (describing the spiritual journeys of college students); TIMOTHY T. CLYDESDALE, *THE FIRST YEAR OUT: UNDERSTANDING AMERICAN TEENS AFTER HIGH SCHOOL* (2007) (arguing that the majority of college students are semi-religious and work on managing everyday life and not on finding or deepening their spiritual identity); Kraig Beyerlein, *Specifying the Impact of Conservative Protestantism on Educational Attainment*, 43 *J. FOR THE SCI. STUDY OF RELIGION* 505, 505-18 (2004) (observing that the level of educational attainment for conservative Protestants varies depending on identification as Fundamentalists, Pentecostals, or Evangelicals); Alyssa N. Bryant, *Evangelicals on Campus: An Exploration of Culture, Faith, and College*, 32 *J. RELIGION & EDUC* 1-30 (2004) (concluding that as educational institutions of higher learning pay less attention to moral formation, individual religious groups assume this responsibility); Harold V. Hartley III, *How College Affects Students' Religious Faith and Practice: A Review of Research*, 23 *C. STUDENT AFF. J.* 111, 111-29 (2004) (reviewing literature from 1989 to 2004 dealing with the impact of the college experience on the religious beliefs of students); Christopher A. Lewis, *Church Attendance and Happiness Among Northern Irish Undergraduate Students*, 50 *PASTORAL PSYCHOL.* 191, 191-95 (2002) (finding no connection between happiness and church attendance

involve law schools. One of the two empirical studies dealing with undergraduate students was undertaken by Margarita Mooney.<sup>10</sup> Professor Mooney used data from the National Longitudinal Survey of Freshmen that began in 1999 and involved 3,924 subjects.<sup>11</sup> She found that attendance at religious services had a significant positive impact on college grades.<sup>12</sup> In other words, college students who attended religious services more often were likely to have higher grades. The positive effect on satisfaction with college was even stronger.<sup>13</sup>

The other study,<sup>14</sup> written by George Kuh and Robert Gonyea, relied on the National Survey of Student Engagement (NSSE). They looked at student spirituality and its effect on various aspects of the student's experience in college. The NSSE data was based on almost 150,000 surveys from students at 461 American universities and four-year colleges.<sup>15</sup> Based on this data, Kuh and Gonyea concluded that students who engage in spirituality-enhancing activities participated more in extra-curricular opportunities such as cultural events and community service.<sup>16</sup> They found in general that spirituality-enhancing activities did not adversely affect positive educational activities such as studying and deep learning.<sup>17</sup> But when looking specifically at faith-based colleges to the exclusion of secular or primarily secular institutions, Kuh and Gonyea found that students tended "to engage less in deep learning activities and to gain less in developing practical competence and general education outcomes."<sup>18</sup> Overall, however, they found that "spirituality-enhancing activities do

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in a survey of 154 Northern Ireland undergraduate students).

10. See Margarita Mooney, Religion, College Grades and Satisfaction Among Students at Elite Colleges and Universities (June 15, 2007) (working article, on file with author).

11. See *id.* at 7.

12. See *id.* at 16.

13. See *id.* at 19.

14. See George D. Kuh & Robert M. Gonyea, *Spirituality, Liberal Learning, and College Student Engagement*, 92 LIBERAL EDUC. 40-47 (2006).

15. See *id.* at 43.

16. See *id.* at 44.

17. See *id.*

18. *Id.* at 46. The authors noted, however, "the effect sizes associated with these differences are small" and, therefore, require more research. *Id.*

not seem to hinder, and may even have mildly salutary effects on, engagement in educationally purposeful activities and desired outcomes of college.”<sup>19</sup>

## II. HISTORY AND DESCRIPTION

### A. *The University of St. Thomas*

The Law School at the University of St. Thomas is definitely serious about its Catholic identity.<sup>20</sup> The Law School, now in its seventh year of operation, is a new part of an institution that is 123 years old and that has a rich Catholic history. The University of St. Thomas was founded in 1885<sup>21</sup> combining a seminary and a college.<sup>22</sup> The College of St. Thomas, as a separate institution, officially came

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19. *Id.*

20. Visible signs of the Law School’s Catholic identity can be found within the building. The first floor of the building houses the spacious St. Thomas More Chapel, which seats 110 and where Mass is celebrated at noon every weekday during the academic year.

Within the cathedral-like Schulze Grand Atrium of the Law School, stands a large marble statue of St. Thomás More, the Catholic patron saint of lawyers. The back inside cover of the Law School’s 2007-2008 Viewbook contains a close-up photograph of this statue showing St. Thomas More’s right index finger touching the crucifix on his chest. The page is entitled “Our Mission,” and the Law School’s mission is printed below the photograph. Given his martyrdom at the hands of King Henry VIII because of continuing loyalty to the Catholic Church, St. Thomas More is a fitting metaphor of the Law School’s commitment to integrating faith and morality into the study of law. The first faculty chair conferred at the Law School was the “St. Thomas More Chair in Law.”

To the right of the St. Thomas More statue is a large portrait of Pio Cardinal Laghi, who served as the president of the Law School’s Board of Governors. Cardinal Laghi served in the Vatican as the Prefect of the Congregation for Catholic Education during most of the 1990s. His portrait is an important and visible symbol of the importance of Catholic identity in the educational mission of the Law School.

In contrast, the classrooms within the Law School are entirely secular in appearance and do not display crucifixes, as are commonly found in the classrooms at other Catholic law schools. The faculty offices display varying degrees of religious and Catholic identity ranging from none to quite substantial.

21. See JOSEPH B. CONNORS, JOURNEY TOWARD FULFILLMENT: A HISTORY OF THE COLLEGE OF ST. THOMAS 31-33 (1986).

22. See *id.* at 35-40 (describing the functions of the College of St. Thomas during 1885 to 1894 as a combination of “the theological seminary, the minor seminary, the junior college, the high school, and the junior high school”).

into existence in early 1894 when Archbishop John Ireland, along with others, filed articles of incorporation.<sup>23</sup> In 1907 the United States War Department designated St. Thomas as a War College, one of only eighteen throughout the country.<sup>24</sup> The College of St. Thomas started its first law school in 1923, which like many law schools of the day, appealed to working professionals by holding late afternoon and early evening classes taught primarily by lawyers and judges.<sup>25</sup> The first law school was steadily losing money and was abolished in 1933.<sup>26</sup> These were hard times financially and academically for the College of St. Thomas,<sup>27</sup> and these factors undoubtedly led to the demise of the first law school.

In 1946 the St. Paul Seminary ordained to the priesthood three remarkable men: Terence J. Murphy, John R. Roach, and James P. Shannon.<sup>28</sup> James P. Shannon became the president of the College of St. Thomas in 1956<sup>29</sup> after having served on the faculty for only two years.<sup>30</sup> When James Shannon was invited to join the faculty in 1954, he encouraged the College to also hire his fellow seminarian, Terence J. Murphy, who, at the time, was serving as a military chaplain at a United States Air Force base in Tennessee.<sup>31</sup> James Shannon's decade-long presidency was viewed as successful and prompted his successor and seminary classmate, Monsignor Terence Murphy, to describe him as "the second founder of St. Thomas."<sup>32</sup>

In 1966, when Monsignor Murphy took the helm as president of the College of St. Thomas, it was an all male Catholic College with one graduate program.<sup>33</sup> When he began his presidency, total

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23. *See id.* at 89.

24. *See id.* at 137. "Few developments in St. Thomas history have had so dramatic an impact on campus life and on the College's relations with the community as the establishment of the military training program." *Id.* at 138.

25. *See id.* at 204.

26. *See id.* at 271-75.

27. *See id.* at 240-46 (describing financial difficulties from 1928 to 1932).

28. *See id.* at 395.

29. *See id.* at 355.

30. *Id.* at 358.

31. *See id.* at 396-97.

32. *Id.* at 389.

33. *See id.* at 392.



enrollment was just over 2000.<sup>34</sup> By the time Monsignor Murphy left the presidency twenty-five years later, the College of St. Thomas had undergone incredible growth in students, programs, and physical plant.<sup>35</sup> Enrollment had increased to over 10,000.<sup>36</sup> During the same period, full-time and adjunct faculty more than doubled.<sup>37</sup> Graduate programs and enrollment mushroomed,<sup>38</sup> and the operating budget increased ten-fold.<sup>39</sup>

An important part of the expansion under the Monsignor Murphy years was the MBA program, which grew from 76 students when it started in 1974 to 2,533 by 1991.<sup>40</sup> Monsignor Murphy saw an MBA program, if it focused on ethical business standards and moral leadership, as being perfectly consistent with the Catholic identity of the college.<sup>41</sup> Similar thinking would reappear in the 1990s when St.

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34. *See id.*

35. *See* Aaron D. Anderson & Cherry L. Danielson, *From College to Comprehensive University: The St. Thomas Transformation* (Dec. 1999), <http://www-personal.umich.edu/~marvp/facultynetwork/cases/stthomas/parttwo.html> (case study prepared for the Kellogg Forum for Higher Education Transformation within the Center for the Study of Higher and Postsecondary Education at the University of Michigan).

36. *See id.* at pt. 3.

37. *See id.*

38. *See id.*

39. *See id.*

40. *See id.* at pt. 2, app. 1.

41. *See* MURPHY, *supra* note 2, at 108-09. Monsignor Murphy explained that one objection to the college offering an MBA was

the possibility that the highly visible presence of a graduate business program in a Catholic university might be criticized as an endorsement of a lifestyle that lacks idealism and even glorifies materialism, that in the end leads to the worship of the god Mammon. Questionable practices have long plagued business and tarnished its image; some graduate schools of business have been censured for their failure to teach ethical business standards and concern for the common good.

The public has a right to expect standards of decency on the part of business leaders. Instead of standing aside and ignoring the moral lapses of some business leaders, universities should prepare young people for moral leadership within business. In the long run a business will prosper to the degree it serves society, and that means it needs people of integrity and leadership ability. Universities that produce such people render a great service to their individual graduates and to the community, which needs a healthy economy.

*Id.*

Thomas began considering the possibility of opening a new law school.<sup>42</sup> By then, the College of St. Thomas had become a regional university.<sup>43</sup> During most of this period, Monsignor Murphy's seminary classmate and friend, Archbishop John R. Roach, served as chairman of the St. Thomas Board of Trustees and, no doubt, contributed to Murphy's success. This success led to rapid expansion of the College and ultimate transformation into the University of St. Thomas.<sup>44</sup>

Father Dennis Dease succeeded Monsignor Murphy and led the way toward consolidation of the incredible growth of the College of St. Thomas, which became the University of St. Thomas shortly after Father Dease began as president.<sup>45</sup> Under Father Dease's administration, total enrollment has remained fairly constant at about 11,000.<sup>46</sup> The University of St. Thomas, however, has been an institution on the move under Father Dease's administration, undertaking major capital improvements<sup>47</sup> and building the University's endowment. In the first six years of his presidency, the endowment grew from \$88 million to \$192 million.<sup>48</sup> By 2007 the endowment was \$460 million<sup>49</sup> with an ongoing campaign to raise an additional \$500 million.<sup>50</sup> A significant portion of this fundraising effort is aimed at benefiting the Law School.<sup>51</sup>

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42. See Anderson & Danielson, *supra* note 35, pt. 3. "Fr. Dease's administration were all in agreement that the goal of the law school would be to educate talented lawyers who would provide moral leadership in their work and society. Moreover, they sought to establish a national program grounded in the University's Catholic intellectual and moral tradition." *Id.*

43. See *id.*

44. See CONNORS, *supra* note 21, at 399 (serving as chair starting in 1975 after he became Archbishop of the St. Paul and Minneapolis Archdiocese).

45. See Anderson & Danielson, *supra* note 35, pt. 3.

46. See *Large Freshman Class Contributes to Record-High Undergraduate Enrollment*, MAG. OF THE U. OF ST. THOMAS, Winter 2007, at 5.

47. One of these many capital improvements has included the construction of the new law school, completed in 2003.

48. See Anderson & Danielson, *supra* note 35, pt. 3.

49. See University of St. Thomas, Quick Facts, <http://www.stthomas.edu/aboutust/quickfacts/default.html> (last visited Sept. 22, 2008).

50. See *Opening Doors: A Campaign for St. Thomas*, MAG. OF THE U. OF ST. THOMAS, Winter 2007, at 61-62 (indicating that over \$315 million had been raised as of Dec. 31, 2007).

51. See *id.* at 65.

*B. The University of St. Thomas School of Law*

In the early 1990s, the University of St. Thomas began thinking about opening a new law school.<sup>52</sup> The University and the William Mitchell College of Law discussed the possibility of a merger, an option that the parties ultimately rejected because issues over governance could not be resolved.<sup>53</sup> Ultimately, the University concluded that it would be unable to acquire the level of governance necessary to insure that the acquired law school would have a Catholic identity and faith-based mission.<sup>54</sup> After commissioning a feasibility study by Anthony Santoro, then Dean at Roger Williams School of Law, the Board of Trustees voted in 1999 to open a new law school.<sup>55</sup>

David Link agreed to serve as the founding dean of the Law School at the University of St. Thomas. He had served as the dean at Notre Dame Law School from July 1999 to January 2002. Dean Link is a serious and committed Catholic.<sup>56</sup> Before the Law School opened its doors, Dean Link wrote a series of essays outlining his concept of a great Catholic law school.<sup>57</sup> Of course, a core ingredient was Catholic identity,<sup>58</sup> which included Catholic Social Teaching<sup>59</sup> and the

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52. See Anderson & Danielson, *supra* note 35, pt. 3.

53. See *id.*

54. See *id.*

55. See *id.*

56. E-mail from Ed Edmonds, Assoc. Dean for Library and Information Technology, Notre Dame Sch. of Law to Scott Taylor, Professor of Law, University of St. Thomas School of Law (Apr. 11, 2008, 16:28:00 CST) (indicating that David Link would be ordained at Gary Cathedral on June 7, 2008, and celebrate his first Mass at the Basilica at the University of Notre Dame) (on file with author).

57. For a list of Dean Link's essays see Jurist, *Ab Initio—The Birth of a Law School*, <http://jurist.law.pitt.edu/idea.htm> (last visited Feb. 23, 2008).

58. David T. Link, *Catholic* (Aug. 7, 2000), <http://jurist.law.pitt.edu/idea0800.htm>.

59. See *id.*

The purpose of a Catholic law school, like the purpose of a secular law school, is to search for truth. And, like a secular law school, a Catholic law school searches for truth through its teaching and research. But the search for truth in a Catholic law school is marked by two dimensions often absent from the search for truth in a secular law school: moral inquiry and enlightenment from Catholic social teaching. In its concentration on morality, and in the degree to which it is influenced by

Catholic Intellectual Tradition.<sup>60</sup> For a law school to have an authentic Catholic identity, a predominantly Catholic faculty was necessary.<sup>61</sup> The Law School had a founding faculty of ten, of whom seven were Catholic.

Patrick J. Schiltz, a professor at Notre Dame Law School and a Catholic, joined Dean Link's administration as Associate Dean<sup>62</sup> and was very much the driving force behind the design and implementation of all aspects of the Law School.<sup>63</sup> He served first as

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centuries of Catholic social thought, a Catholic law school differs markedly from its secular counterpart.

*Id.*

60. *See id.*

A legal scholar at a Catholic law school will examine the same constitutions, statutes, regulations, treaties, judicial decisions, administrative rulings, and other sources of positive law as a legal scholar at a secular law school. And, in assessing the merits of those sources of positive law, a legal scholar at a Catholic law school will use some of the same analytical tools—e.g., textual analysis or assessment of economic consequences—that a secular scholar might use. But the scholarship of students and faculty at a Catholic law school will, to a much greater extent than the scholarship of those at a secular law school, focus on the morality of a statute or judicial opinion or other source of law. Is the law consistent with natural law? Does the law respect the sanctity of human life?

*Id.*

61. *See id.* "It is hard to imagine that a law school could be 'Catholic' without at least a critical mass of Catholics on its faculty and in its student body. . . ." *Id.*

62. David T. Link, Faculty (Jan. 29, 2001) <http://jurist.law.pitt.edu/idea0201.htm>.

63. *See* Schiltz, *supra* note 4 at 1041.

In his Red Mass reflections, Prof. Schiltz articulated a strong vision of a Catholic law school as a "community of faith"—one that would graduate lawyers who would integrate their religious and moral values into their professional identities and who would have a passion for using their legal training to serve God and their fellow human beings. Prof. Schiltz's remarks turned out to be far more influential than either Prof. Schiltz or his audience anticipated at the time.

In April 2000, the University contacted Prof. Schiltz again—this time to invite him to assume primary responsibility for the day-to-day work of setting up the new law school. Prof. Schiltz accepted the invitation, and, in July 2000, joined St. Thomas as the founding Associate Dean of the School of Law.

Over the next year, Prof. Schiltz worked on the hundreds of tasks that must be accomplished before a new law school can open its doors. His

Associate Dean, then as Acting Dean during the first half of 2002, then was named the Thomas More Professor of Law at the Law School when he stepped down as Associate Dean in the summer of 2003,<sup>64</sup> and became a federal district court judge in May of 2006.<sup>65</sup> Hereafter, I will refer to him as Judge Schiltz.

This new law school gave Judge Schiltz the opportunity to put his ideas about legal education and professional formation into practice. His scholarship as a professor at Notre Dame had focused on the professional and moral formation of law students and lawyers.<sup>66</sup> On September 29, 1999, at the University of St. Thomas, shortly after it had announced its intention of opening a new law school in 2001, then Notre Dame Professor Schiltz gave a speech entitled “Does the World Really Need Another Catholic Law School?”<sup>67</sup> In that speech, Judge Schiltz questioned the authenticity of most Catholic law schools and doubted that their graduates were any different from those graduating from secular law schools.<sup>68</sup> Judge Schiltz asserted that a Catholic “community of faith” was the critical, necessary, and core feature of a Catholic law school.<sup>69</sup> Law students learning law in such an

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primary responsibilities included shaping and expressing the school's mission; hiring the administrators, faculty, and staff; putting together long-term budget and staffing plans; designing the curriculum and initiating such programs as the mentor program and the public-service requirement; and working with the architects to design the new law school building. In all his work, Prof. Schiltz sought to bring to life the vision that he had described at the 1999 Red Mass.

*Id.* at 1041-42.

64. See U.S. Dep't of Justice, Resume of Patrick J. Schiltz, <http://www.usdoj.gov/olp/schiltzresume.htm> (last visited Feb. 24, 2008) (omitting reference to his service as Acting Dean during the first six months of 2002).

65. See U.S. Dist. Court for the Dist. of Minn., Press Release: Patrick J. Schiltz to Take Federal Court Oath (May 16, 2006), [http://www.mnd.uscourts.gov/Press\\_Releases/schiltz051606.pdf](http://www.mnd.uscourts.gov/Press_Releases/schiltz051606.pdf) (indicating that Judge Schiltz assumed his judicial position on May 30, 2006).

66. See Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999) [hereinafter *Unethical Profession*]; Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elitist Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705 (1998) [hereinafter *Legal Ethics in Decline*].

67. See Schiltz, *supra* note 4, at 1041.

68. See *id.* at 1043.

69. *Id.* at 1044.

environment would be morally whole and capable of becoming a new kind of lawyer—one who integrates faith with morality to promote justice.<sup>70</sup> In spring 2004, Judge Schiltz provided retrospective thoughts about his 1999 speech and the accomplishments of the Law School. He concluded that the enterprise had been much more difficult than he could have ever imagined but was largely a success with many challenges ahead.<sup>71</sup> He identified the potential erosion and loss of the community of faith as the biggest challenge facing the Law School.<sup>72</sup>

Thomas Mengler, a life-long Catholic, succeeded David Link as dean of the Law School in the summer of 2002.<sup>73</sup> Dean Mengler, who had served as dean at the School of Law at the University of Illinois for many years, wrote in 2003 that he saw faith and belief in God as the cornerstone of character formation for law students and lawyers.<sup>74</sup> Although he formerly had thought that law professors should play only a minimal role in the character formation process of law students,<sup>75</sup> further reflection about his own development in professional life led him to conclude that mentors along the way had helped him in his character formation.<sup>76</sup> He saw how he, like most Americans, could anchor himself to his core religious beliefs and values and “how growth in God’s image is a life-long process.”<sup>77</sup> Dean Mengler also wrote about the moral importance of service, especially pro bono work by lawyers. He pointed out that a faith-based law school could encourage law “students to connect their spiritual selves to their professional identities”<sup>78</sup> and then discern that “as children of God, we are all called to love God and love our neighbors.”<sup>79</sup> He concluded that the moral imperative to provide

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70. *See id.* at 1045-46.

71. *See id.* at 1047-50.

72. *See id.* at 1052-53.

73. Michelle Lore, *In Step with the New Dean of St. Thomas School of Law*, THE MINN. LAW., Sept. 9, 2002.

74. *See* Thomas M. Mengler, *What’s Faith Got to Do With It? (With Apologies to Tina Turner)*, 35 U. TOL. L. REV. 145, 147-49 (2003).

75. *Id.* at 147.

76. *Id.* at 148.

77. *Id.* at 149.

78. *Id.* at 151.

79. *Id.*

public service derived “from our roles as members of God’s community.”<sup>80</sup> More recently, Dean Mengler celebrated the Law School’s success in an area where, according to the 2007 Carnegie Study on Legal Education, most other law schools fail: ethical formation of students.

At its core, our School of Law’s mission is about formation, and our goals are to assist students to continue along their individual journeys. We believe that, as children of God, we are each called to lead by serving—by serving our clients with competence and compassion and by serving our communities, especially those who are most in need of our care.

I am proud that the Carnegie Study confirms what we at St. Thomas have already surmised. Our School of Law is substantially ahead of the pack in encouraging students to draw on themselves, their faith, and their values, in developing their professional identity.<sup>81</sup>

In the summer of 2003, Neil Hamilton, who later converted to Catholicism, succeeded Judge Patrick Schiltz as Associate Dean,<sup>82</sup> serving in that position for two years. Professor Hamilton’s association with the Law School began in the 1990s when the University of St. Thomas and the William Mitchell College of Law began discussing the possibility of a merger.<sup>83</sup> He was then a professor at William Mitchell College of Law and was directly involved in those merger discussions.<sup>84</sup> Ultimately, the merger never took place primarily because the secular culture at William Mitchell College of Law was fundamentally incompatible with the Catholic identity of the University of St. Thomas and the faith-based focus of its new School of Law.<sup>85</sup> Professor Hamilton, even though he had been a member of the faculty at the William Mitchell College of Law for many years, was drawn to the faith-based focus of the proposed

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80. *Id.* at 152.

81. Thomas J. Mengler, *Carnegie Study: Do Law Schools Help Shape Students’ Hearts and Minds?*, 1 ST. THOMAS LAW. 1 (2008).

82. *See* Interview by Scott A. Taylor with Neil Hamilton, Professor of Law at the University of St. Thomas School of Law at the University of St. Thomas (Feb. 25, 2008).

83. *See id.*

84. *See id.*

85. *See* Anderson & Danielson, *supra* note 35, at pt. 3.

law school and became one of its founding faculty members in 2001.<sup>86</sup> In the fall of 2006, he became the director of the Holloran Center for Ethical Leadership in the Professions.<sup>87</sup>

From the beginning of the operation of the Law School until now, Professor Hamilton has played a major role in the design and operation of the Law School's mentor externship program.<sup>88</sup> The Law School's Mentor Externship was Judge Schiltz's idea,<sup>89</sup> growing out of his scholarship on the ethical formation of lawyers.<sup>90</sup> The educational objective of the Law School's Mentor Externship program is to foster the professionalism of law students by connecting them with lawyers and judges.<sup>91</sup> The students develop a meaningful relationship with the mentor that enables the students to tap into the wisdom and insight of the members of the legal profession.<sup>92</sup> During the second and third years of the program, a classroom component is added that covers a range of professional subjects such as "marketing, networking, leadership skills, understanding the economic realities of legal practice, work/life balance, time management skills and prioritization and client service."<sup>93</sup> Faith, as a component of the program, is implicit.<sup>94</sup>

Jerome M. Organ succeeded Neil Hamilton as Associate Dean of the Law School in the summer of 2005. Dean Organ, a life-long Catholic,<sup>95</sup> was part of the founding faculty of the Law School.<sup>96</sup> He

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86. See Mark Cohen, *Law Professor Neil W. Hamilton: Making Ethics More Than an Academic Pursuit*, MINN. LAW., Jan. 27, 2003, at 1-3.

87. See Interview with Neil Hamilton, *supra* note 82.

88. See Cohen, *supra* note 86, at 1-3.

89. See Patrick J. Schiltz, *Making Ethical Lawyers*, 45 S. TEX. L. REV. 875, 876 (2004).

90. See *Legal Ethics in Decline*, *supra* note 66, at 746-87.

91. See Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 123 (2007).

92. See *id.*

93. UNIVERSITY OF ST. THOMAS SCHOOL OF LAW, 2007-2008 VIEWBOOK 12 (2007).

94. See Hamilton & Brabbit, *supra* note 91, at 126-27 (connecting faith with ethics and noting that reflective journals promote the development of "moral reasoning and personal conscience in the context of professional work").

95. On March 5, 2008, I attended a gathering sponsored by a student organization at the University of St. Thomas School of Law. The organization, known as the Faith and Reason Society, hosted "A Conversation with Dean Organ:



left a tenured position at the University of Missouri<sup>97</sup> to move to St. Thomas because of a strong attraction, a calling, to its faith-based mission. Dean Organ has described how legal education should be transformed at a Catholic law school by emphasizing vocation, Catholic Social Teaching, and community.<sup>98</sup>

A law school community comprised of students, staff, and faculty who embrace the broad concept of multiple vocations lived out with an understanding of CST [Catholic Social Teaching] should view itself as providing a formation experience, one in which each student (and each member of the staff and faculty) should be living out and fulfilling her multiple vocations as student, spouse, friend, sibling, child, parent, coworker and volunteer, while discerning where and how God may be calling her to use her gifts and talents, along with her understanding of the law and the skills and values of the profession, upon graduation from law school.<sup>99</sup>

Dean Organ has argued for the creation of a new law school culture.<sup>100</sup> This new culture would grow out of a “broad concept of multiple vocations lived out with an understanding of [Catholic Social Teaching].”<sup>101</sup> It would displace the negative culture of cut-throat competition found at most other law schools, including other Catholic law schools.<sup>102</sup> Dean Organ sees multiple vocations as transforming the prevailing law school culture into a new culture that defines law student success in different terms—not in terms of grades.<sup>103</sup> Within the new law school culture that he promotes at the University of St. Thomas, Dean Organ defines law student success in very broad terms.

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Finding Meaning in the Mission.” At this conversation, Dean Organ told his faith story, which included discussion of his childhood Catholic identity and the important connection he had with his parish church.

96. See Link, *supra* note 62.

97. See *id.*

98. See Jerry Organ, *From Those to Whom Much Has Been Given, Much is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School*, 1:2 J. CATH. SOC. THOUGHT 361 (2004).

99. *Id.* at 391.

100. See *id.*

101. *Id.*

102. See *id.* at 382-83.

103. See *id.* at 402.

He invites the student to define success using personal and intrinsic values such as integrity, honesty, responsibility, and service.<sup>104</sup> He emphasizes collaboration instead of competition.<sup>105</sup> This promotes community instead of causing individual isolation.<sup>106</sup> Recognizing service as having intrinsic value and as one marker of success helps to instill and develop an ethic of pro bono service.<sup>107</sup> He sees this new culture as promoting integration and balance in the professional formation of law students as they find their divine calling as lawyers.

The University of St. Thomas' faith-based mission broadly affects the Law School. For example, the published scholarship of the faculty reflects Catholic and religious themes as they relate to legal education,<sup>108</sup> institutions,<sup>109</sup> and thought.<sup>110</sup> In addition, the Law

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104. See *id.* at 393 n.96.

105. See *id.* at 395-99.

106. See *id.* at 396-400.

107. See *id.* at 400-01.

108. See, e.g., Schiltz, *supra* note 66; Mengler, *supra* note 74; Organ, *supra* note 98.

109. See, e.g., Thomas C. Berg, *Intellectual Property and the Preferential Option for the Poor*, 5 J. CATH. SOC. THOUGHT 193 (2008) (critiquing broad intellectual property laws in their effect on the poor); Teresa S. Collett, *Constitutional Confusion: The Case for the Minnesota Marriage Amendment*, 33 WM. MITCHELL L. REV. 1029 (2007) (asserting that Minnesota should amend its constitution to prohibit same-sex marriage because the current state statute banning same-sex marriage might be overturned by judicial decision); Joel A. Nichols, *Multi-Tiered Marriage: Ideas and Influences from New York and Louisiana to the International Community*, 40 VAND. J. TRANSNAT'L L. (2007) (suggesting that states follow the lead of Louisiana and some foreign countries by ceding marriage and family law jurisdiction to religious tribunals); Michael S. Paulsen, *Prospective Abolition of Abortion: Abortion and the Constitution in 2047*, 1 U. ST. THOMAS J. L. & PUB. POL. 51 (proposing a constitutional amendment abolishing abortion forty years in the future as a way of building a political consensus); Charles J. Reid, Jr., *Three Arguments Against Same-Sex Marriage: Classical, Medieval, and Modern*, in TEMPERANCE (R.E. Houser ed., forthcoming 2008) (arguing against same-sex marriage based on modern and historical theories); Elizabeth R. Schiltz, *Motherhood and the Mission: What Catholic Law Schools Could Learn from Harvard About Women*, 45 J. CATH. LEG. STUD. 369 (2007) (contending that Catholic universities, to be consistent with Catholic Social Teaching supporting the family and mothers, should adopt rules that promote professional participation of women by restructuring the workplace so that it accommodates the role of the woman as parent); Gregory C. Sisk & Charles J. Reid, Jr., *Abortion, Bishops, Eucharist, and Politicians: A Question of Communion*, 43 CATH. LAW. 255 (2004) (explaining the canon law basis

School's curriculum incorporates and explores Catholic and religious themes.<sup>111</sup> Each member of the faculty is issued a copy of the book entitled "Compendium of the Social Doctrine of the Church"<sup>112</sup> and they each commit to integrating Catholic Social Teaching into their regular law courses.<sup>113</sup> Starting in the fall of 2007, all first-year

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of a bishop's decision to deny communion to Catholic politicians who take positions on abortion that are contrary to the teachings of the Catholic Church); Susan Stabile, "Poor" Coverage: The Preferential Option for the Poor and Access to Health Care, 5 J. CATH. SOC. THOUGHT 125 (2007) (employing Catholic Social Teaching to argue for health care for the poor in the United States); Robert K. Vischer, *Pharmacist Rights and the Eroding Moral Marketplace*, 17 STAN. L. & POL'Y REV. 83 (2006) (arguing for the right of employers to grant pharmacists an exemption from filling prescriptions that would violate an individual pharmacist's religious beliefs).

110. See, e.g., Thomas C. Berg, *John Courtney Murray and Reinhold Niebuhr: Natural Law and Christian Realism*, 4 J. CATH. SOC. THOUGHT 3 (2007) (exploring the interconnection of Natural Law and Christian Realism); Scaperlanda & Collett, *supra* note 3 (a variety of essays dealing with Catholic legal theory and its application in various areas of American law).

111. These courses include Canon Law of Marriage; Canon Law: Basic Principles; First Amendment: Religious Liberty; Foundations of Justice (required first-year course with a substantial emphasis on Catholic Social Teaching and the Catholic Intellectual Tradition); Jurisprudence (incorporating Aristotle, Augustine, and Aquinas with a substantial emphasis on Natural Law); The Religious Lawyer; War, God, and the Constitution; Western Legal History of Marriage. University of St. Thomas School of Law, Course Details, <http://www.stthomas.edu/law/academics/Coursedetails.html> (last visited Mar. 12, 2008).

112. See PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *supra* note 1.

113. See Memorandum from Scott A. Taylor, Professor of Law, Univ. of St. Thomas Sch. of Law to Neil Hamilton, Assoc. Dean, Univ. of St. Thomas Sch. of Law, *The Mission in the Classroom: How the Faculty Integrated Faith and Reason into the Curriculum in 2002-03* (Sept. 11, 2002) (copy on file with author). Specifically, I reported that my Federal Income Tax class

spent time discussing wealth distribution and the progressive income tax. Professor Taylor assigned some Catholic social teaching readings that seemed to support the progressive income tax as a means of redistributing wealth from those with the most to those with the least. Some vocal students contested the fairness of a progressive income tax, asserting that it punished those who worked hard to produce income and wealth. These students argued that everyone, except the poorest, should pay a flat tax on their incomes. The class also discussed whether the capital gains tax was morally justified. The consensus in the class [with which I disagreed] was that the capital gains tax break for the wealthy was justified as a reward for risk taking.

*Id.* at 8. The Associate Dean collects information each year from faculty on how

students are required to take a three-credit Foundations of Justice course, which relies heavily on Catholic Social Teaching and Catholic Legal Theory but also incorporates Islamic and Jewish perspectives.<sup>114</sup> Law students at the school are exposed to numerous extra-curricular events and activities that have Catholic, religious-legal, and ethical themes.<sup>115</sup> As a matter of scheduling, the Law School sets aside thirty minutes at noon each day for religious worship, prayer, and reflection. Catholic Mass is offered at this time in the Law School's St. Thomas More Chapel.<sup>116</sup>

The admissions process at the Law School reaches out to and tries to attract Catholic students and other students of faith looking for a law school in which religious identity is valued, respected, and encouraged to flourish.<sup>117</sup> Most students, after they begin their studies at the Law School, are very satisfied with this learning environment that values each person's religious identity.<sup>118</sup> The various leaders of

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they integrate the mission into their classroom and clinical teaching.

114. See University of St. Thomas School of Law, Course Details: Foundations of Justice, <http://www.stthomas.edu/law/academics/Courseindex.html> (follow "Foundations of Justice I" hyperlink) (last visited June 23, 2008) (describing Foundations of Justice as required first-year course with a substantial emphasis on Catholic Social Teaching and the Catholic Intellectual Tradition).

115. For the first two weeks of March 2008, several events appeared on the Law School calendar: a meeting of the St. Thomas More Society; a meeting of the Christian Legal Society; a Lenten Retreat for Daily Living; a Special Lenten Mass; a Law Journal symposium on promoting social and economic justice in Latin America; a meeting of the Faith and Reason Society; a Mission Awards luncheon to recognize students, faculty and staff who promote the law school's faith-based mission; a Murphy Institute presentation by Douglas Kmiec entitled "The Call to Faith-ful Citizenship & the 2008 Primary"; a lecture sponsored by the Holloran Center for Ethical Leadership in the Professions featuring James O'Toole who promoted values-based leadership in the professions; a St. Thomas More Society presentation by Dr. Alveda King explaining the moral basis of her anti-abortion stance. In addition, other meetings and events took place, including a week of oral arguments in cases pending before the Federal 8<sup>th</sup> Circuit Court of Appeals.

116. See VIEWBOOK, *supra* note 7, at 19. During this worship period, the Law School "also supports other forms of spiritual nourishment, including Bible Studies, meditation, yoga and prayer services for non-Catholics." E-mail from Jerome Organ, Assoc. Dean, Univ. of St. Thomas Sch. of Law, to Scott Taylor, Prof. of Law, Univ. of St. Thomas Sch. of Law (June 12, 2008, 11:05:00 CST).

117. See VIEWBOOK, *supra* note 7, at 18.

118. See *id.* at 3 (noting that the Princeton Review has ranked the Law School first in quality of life based on surveys of our students).

the Law School, from its conception, birth, and development, have placed primary emphasis on its Catholic identity and the importance of students and lawyers incorporating their religious identity into their professional identity.<sup>119</sup>

The faculty as a whole has attempted to “integrate faith and reason” in the overall enterprise of legal education at the Law School.<sup>120</sup> These efforts take place inside and outside the classroom. Outside the classroom, members of the faculty engage in a number of activities that reinforce and reflect the Law School’s faith-based mission. These outside activities include active participation of five

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Nonetheless, some students find the faith-based mission of the law school to be a negative factor. On one of the surveys for my study, a student wrote: “Religion and the law seem like oil and water to me. Even if you are a believer I don’t see where the real interplay is.” Another student wrote: “Religion and law intersecting is very dangerous. Religion creates unjust hate of others; the law should be no place for this.”

In my Federal Income Tax classes, I require students to write an anonymous prayer, thought, or meditation. I collect these and then read two or three at the beginning of each class. I also permit students to satisfy this requirement by objecting to the practice. In a recent class, one student wrote:

I respectfully choose not to be part of the daily prayer/meditation. The reason for this is that I do not feel class is the appropriate place to pray. I come to class to learn about the law. Any prayer I do will be at home or in church. I understand that this puts me at odds with many people at St. Thomas. However, it is important to be honest about how I feel. Prayer in class is uncomfortable for me and I don’t participate.

Another student wrote:

I believe that St. Thomas occasionally allows its mission statement to interfere with its greater responsibility of providing top quality legal education to its students. I have been in classes where considerably too much time has been spent on prayer, meditation, and contemplation. In an effort towards restoring the balance, I would like to give the time that would have been spent reading my contribution back to instruction.

I have been asking students to write anonymous prayers, thoughts, or meditations in my Federal Income Tax classes for six years at the University of St. Thomas. Generally, about 5% of the class expresses disagreement through anonymous objections even though the exercise allows purely secular expressions in the form of a thought or meditation. About 40% of the submissions are primarily secular. About 40% are deeply religious. And the remaining 20% are a mixture.

119. See VIEWBOOK, *supra* note 7, at 3 (stating that the Law School has a unique mission of integrating faith and reason aimed at preparing accomplished attorneys who use faith and values in their practice).

120. See Mengler, *supra* note 81, at 1.

faculty members on the Mirror of Justice blog.<sup>121</sup> The Mirror of Justice blog is influential in exploring and discussing important legal issues and current news events to promote the development of Catholic Legal Theory.<sup>122</sup>

Each semester faculty members lead weekend retreats on vocation as it relates to the study and practice of law. At these retreats, students are encouraged to find, see, and understand how God is part of their lives, including their professional identities as future lawyers. For example, Professor Susan Stabile has led several retreats during her first year at the Law School.<sup>123</sup> The first retreat focused on God's unconditional love<sup>124</sup> and God's calling "to integrate our faith in all aspects of our lives, to be God's agents for change in the world."<sup>125</sup>

The Law Journal of the University of St. Thomas has sponsored numerous symposia dealing with Catholic and religious-legal themes.<sup>126</sup> Likewise, the two centers at the Law School are deeply connected with its Catholic, faith-based mission. The Holloran Center for Ethical Leadership in the Professions has the mission of educating "morally responsible leaders" about servant leadership in the

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121. See VIEWBOOK, *supra* note 7, at 7. Less formal activities include faculty participation in Faith and Reason (a chartered student group), the Christian Legal Society (a chartered student group), and individual discussions with students about faith. See E-mail from Jerome Organ, Assoc. Dean, Univ. of St. Thomas Sch. of Law, to Scott Taylor, Prof. of Law, Univ. of St. Thomas Sch. of Law (June 12, 2008).

122. See Mirror of Justice, <http://www.mirrorofjustice.com/> (last visited Sept. 18, 2008).

123. See *Professor Stabile Leads Spiritual Retreats for Students*, Univ. of St. Thomas Sch. of Law, 1 ST. THOMAS LAW. 6 (2008).

124. See *id.*

125. *Id.*

126. See Symposium, *God, the Person, History, and the Law: Themes from the Work of Judge John T. Noonan, Jr.*, 1 U. ST. THOMAS L. J. 1 (2003) (Judge Noonan, Jr. is a leading American jurist and scholar who is a proponent of natural law theory); Symposium, *Federal Marriage Amendment: Yes or No?*, 2 U. ST. THOMAS L. J. 1 (2004) (dealing with the proposed amendment that would have banned same-sex marriage); *Selected Papers from the Terrence J. Murphy Institute Conference: Sacrifice and the Common Good in Catholic Tradition*, 3 U. ST. THOMAS L. J. 1 (2005); *Selected Papers from the Terrence J. Murphy Institute Conference: Public Policy, Prudential Judgment and the Catholic Social Tradition* 4 U. ST. THOMAS L. J. 1 (2006); Symposium, *Catholicism and the Court: The Relevance of Faith Traditions to Jurisprudence* 4 U. ST. THOMAS L. J. 157 (2006).

professions.<sup>127</sup> The Center “encourages leaders to serve others, helping each to reach his or her potential, and nurturing integrity and community values.”<sup>128</sup> This emphasis on morality and community provides critical ties to the mission of the Law School. The other center, the Terence J. Murphy Institute, is a joint venture between the Law School and the University’s Center for Catholic Studies and promotes the integration of Catholic thought, law, and public policy.<sup>129</sup> Its first two conferences focused on the Catholic intellectual and social traditions.<sup>130</sup> Papers from these conferences were published in the University of St. Thomas Law Journal.<sup>131</sup>

As already noted, a substantial part of the faculty’s scholarship has focused on themes that involve Catholic Legal Theory and Law and Religion.<sup>132</sup> A seminal piece of collected scholarship is found in Professor Teresa Collett’s recent book entitled *Recovering Self-Evident Truths: Catholic Perspectives on American Law*. This book explores Catholic Legal Theory as a legitimate part of American jurisprudence. Francis Cardinal George, Archbishop of Chicago, wrote in the foreword of this book that Catholic legal theory

is deepened and anchored by the exposition of a Christian anthropology. The nature of the human person is basic to Catholic perspectives on American law and the place of religious faith in public discourse. Law and spirit, conscience and positive legislation, belong together. A Catholic anthropology elicits the values of freedom, solidarity, subsidiarity, and the common good, which should equip Catholic legal thought for a dialogue with

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127. See VIEWBOOK, *supra* note 7, at 14.

128. *Id.*

129. *See id.*

130. *See id.*

131. *See Sacrifice and the Common Good in Catholic Tradition, supra* note 126; *Public Policy, Prudential Judgment and the Catholic Social Tradition, supra* note 126.

132. A good ongoing compilation of much of this work can be found at the Law School’s SSRN site. *See*, Social Science Research Network, University of St. Thomas School of Law Legal Studies Research Paper Series, <https://www.ssrn.com/link/st-thomas-legal-studies.html> (last visited Mar. 13, 2008).

secular disciplines and secular culture by opening up a space of truth in what is common to all.<sup>133</sup>

Professor Collett, along with her co-editor, Michael A. Scaperlanda, reiterates the universality of this “truth” that “is common to all.”

In its account of the human encounter with reality, Catholicism proposes certain truths about the human person, human flourishing, and human community. Because these truths are made evident by our basic human needs (the deepest longings of the human heart), these insights from Catholicism are discernible even by those who do not share the Catholic faith tradition.<sup>134</sup>

This historical and descriptive background paints a picture of a new law school deeply connected to the Catholic identity of its parent university. The faith-based nature of the Law School has been an attraction to many of the students, staff, and faculty. Most of the incoming students know what they are getting and often come to the Law School to get it.<sup>135</sup>

### III. DESCRIPTION AND RESULTS OF THE EMPIRICAL STUDY

#### A. *The Hypothesis*

For purposes of this empirical study, my hypothesis was that a student with a strong faith identity<sup>136</sup> at a faith-based law school

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133. Francis Cardinal George, *Foreword*, to RECOVERING SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW, *supra* note 3, at xi-xii.

134. Scaperlanda & Collett, *supra* note 3, at 8-9.

135. In 2006, the Law School conducted a mission survey. In response to that survey, one student wrote: “Please don’t give up in your attempts to further the mission. There are plenty of people (particularly students) who see little or no value in the mission, but there are many of us who came to UST because it’s the only place we could sincerely pursue our goals.” A less satisfied student wrote: “I have my own mission. I thought UST would complement that but it feels more like some cute recruiting campaign now that I’ve been here.”

136. If all of the students in the sample had a high and indistinguishable spirituality, then this improvement in grades could not be measured if the standard of grading is based on a mandatory curve instead of an external objective standard. In my study, however, the spirituality of persons in the sample showed a distribution



should do better than expected on measures of academic performance. By academic performance, I mean grades in law school courses. I assumed that the faith-based environment would produce positive emotions and motivations that, in turn, would enhance learning. This enhanced learning would enable the affected students to achieve higher than expected grades on their exams and papers. In addition, students who are connected to each other through faith in a faith-based community would help and encourage each other to learn. This mutual support, I hypothesized, would enhance learning and improve grades. In contrast, a student with a weak faith identity might feel isolated or out of place and experience the kind of disaffection that seems to typify many law schools.<sup>137</sup>

### *B. Description of the Study*

The study was quite simple. I used a survey to measure each subject's spirituality and then correlated the survey with academic performance reflected in first-year grades. The sample was drawn from the two classes that I taught in fall 2007. These classes were Federal Income Tax and Native American Law. The Federal Income Tax class was a required course and had an enrollment of 78 second and third-year students. The Native American Law class was an elective course and had an enrollment of 48. I assumed that the two classes together would be a good sample of the second- and third-year classes. Out of the 126 students in the sample, I ended up with 97 usable surveys.<sup>138</sup> The surveys were anonymous.

I started with existing admissions and academic data on each student in my sample. The existing data for each student was: 1) the score on the Law School Admissions Test (LSAT), 2) the

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and a range that divided into three groups of roughly equal size. The three groups fell into low, medium, and high spirituality. Therefore, differences in spirituality could be compared to the variance in expected academic performance.

137. See, e.g., Organ, *supra* note 98, at 381-82 (describing the largely negative culture found at many law schools).

138. The number of surveys was less than 126 because some students were absent on the day the survey was administered, some were in both classes and, therefore, completed only one survey, some were international students whose undergraduate grade point average was deemed to be not comparable, and some students were transfers from other law schools having grading practices that were different from the University of St. Thomas School of Law.

undergraduate grade point average (UGPA), 3) the predicted first-year grade point average in law school (PFYA), and 4) the actual grade point average for the first year of law school (FYA). At the University of St. Thomas School of Law, the LSAT and the UGPA have had a significant correlation with the FYA. These two variables are combined to produce a PFYA for each student based on a Law School Admission Council Correlation Study of the Law School classes for 2004, 2005, and 2006.<sup>139</sup> Based on this study, the correlation between the PFYA and the FYA at the University of St. Thomas School of Law was 0.594 based on a population of 427.<sup>140</sup> I matched the LSAT, UGPA, PFYA, and FYA data with the individual subjects of my survey.

Initially level, I was interested in seeing how each subject actually performed academically in the first-year<sup>141</sup> compared to the PFYA. This comparison showed whether a student, based on the combined predictors of the LSAT and the UGPA, performed better or worse than expected. I could measure this variance by comparing the predicted first-year average (PFYA) with the actual first-year average (FYA). From this, I constructed a variance index to measure each student's actual performance compared to predicted performance. For example, a student with a PFYA of 3.0 and a FYA of 3.2 did 0.2 better than expected. In contrast, a student with a PFYA of 3.3 and a FYA of 2.8 did 0.5 worse than expected. Students doing better had a positive variance while those doing worse had a negative variance. To

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139. See LAW SCHOOL ADMISSION COUNCIL, LSAT CORRELATION STUDIES: REPORT ON FIRST-YEAR PERFORMANCE/AVERAGE LSAT AND UGPA CORRELATIONS (Fall 2007) [hereinafter LSAC UST Correlation Study] (summarizing results from the University of St. Thomas) (on file with author).

140. See *id.*

141. The University of St. Thomas School of Law, like many law schools, has a grading standard that requires all professors teaching required courses to have a mean grade of 2.7 to 2.9 for each section. In addition, the grades in these courses are based on anonymously graded mid-term and final exams using short answer, essay, and multiple choice questions. Of the 29 required credits in the first year, 24 of the credits are in required courses subject to this grading standard. The other five credits are in two lawyering skills courses in which the grades are based primarily on legal writing assignments. These two courses, although required, are exempt from the mandatory 2.7 to 2.9 standard. Instead, the faculty members teaching these courses meet regularly so that the grades in each of the sections have comparable means and distributions.

calculate a correlation using Pearson's Correlation Coefficient, however, I needed to use a range of positive numbers, not a mix of positive and negative numbers. To accomplish a range of numbers that would all be positive, I decided to start with 2 and then reduce that number for a negative variance and increase it for a positive one. In the above examples, then, the positive variance student would have a variance index on my scale of 2.2 (the 0.2 better than expected was added to 2 to yield 2.2). In contrast, the student who did 0.5 worse than expected would have a variance index of 1.5 (the 0.5 worse than expected reduced 2 to 1.5). As a result, a student who did as expected would have a 2, a student doing better would have more than 2, and a student doing worse would have less than 2. Within my sample, the variance index ranged from 1.06 to 2.66 with a mean of 1.90<sup>142</sup> and a standard deviation of 0.37.

I then compared each subject's spirituality with his or her variance index. Under my hypothesis, I expected to find a positive correlation. Before computing a correlation, I needed to measure spirituality. To begin, I reviewed public opinion surveys about religion, belief in God, and religious practices. In addition, I was interested in the possible effect of prayer because of research finding that at least one-third of the population in the United States uses prayer to improve medical outcomes.<sup>143</sup> I then constructed a spirituality survey with eleven questions. The survey is in Appendix A.

I administered the survey at the beginning of my two classes in the fall of 2007. The survey was voluntary, and measures were used to prevent the matching of the survey responses with the identity of

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142. I would have assumed that the mean would be 2.0 not 1.9 because, on average, a significant number of students would earn grades close to their individual PFYA, some better, and some worse. The lower than expected mean FYA arose because the law school has a mandatory curve that requires a mean grade of 2.7 to 2.9 in each first-year class. The PFYA of my sample was 2.95, which was too high for the mandatory curve. Assuming a sample representative of the entire population, the curve forced the grades down so that it became impossible for the group to perform up to expectations.

143. See, e.g., Anne M. McCaffrey et al., *Prayer for Health Concerns: Results of a National Survey on Prevalence and Patterns of Use*, 164 ARCHIVES INTERNAL MED. 858 (2004), available at <http://archinte.ama-assn.org/cgi/reprint/164/8/858> (noting that prayer for health concerns may be an important phenomenon that should be understood by health care professionals).

the responder.<sup>144</sup> As a result, the data were completely anonymous and, therefore, confidential. The total population of all students entering the law school in 2004, 2005, and 2006 was 427.<sup>145</sup> My sample of 97<sup>146</sup> has characteristics that are very similar to the classes of 2004, 2005, and 2006. Accordingly, my sample is a good representation of the larger population and provides a basis for making generalizations that apply to the entire population. Table 1 shows the similarity between the total population and the survey sample in terms of factors used for admission and academic performance during the first year of law school.

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144. The surveys were distributed to the students. Each student, if he or she chose to participate, placed an exam number on the survey. The surveys were collected by a designated student and placed in an envelope and sealed. The sealed envelope was then delivered to the Law School official who records exam grades. The identity of each student was matched by name to the exam number. A second law school official matched the LSAT, UGPA, and PFYA with each exam number and then deleted all of the names. A third person then matched the survey data with the exam numbers, recorded written comments, and then deleted the exam numbers. The author then received the data without the names and without the exam numbers. From this totally anonymous data, the author conducted the statistical analyses. The nature of the survey and the anonymity of the data placed the research within the exemption contained in 45 C.F.R. § 46.101(b)(1) (2007).

145. See LSAC UST Correlation Study, *supra* note 139, at second unnumbered page.

146. I used the software program SPSS for Windows, version 11.5 for all of my statistical analysis.

Table 1: Comparison of Total Population to Survey Sample

	Total Population <sup>147</sup>	Survey Sample <sup>148</sup>
Size	427	97
FYA Mean	2.87	2.85
FYA Standard Deviation	0.43	0.48
LSAT Mean	155.26	155.76
LSAT Standard Deviation	4.93	5.11
UGPA	3.31	3.29
UGPA Standard Deviation	0.44	0.46
LSAT/FYA Correlation	0.411(**)	0.451(**)
UGPA/FYA Correlation	0.438(**)	0.449(**)
LSAT & UGPA/FYA Regression	0.594	0.618

\*\* Correlation is significant at the 0.01 level (2-tailed).

I scored the responses to each question on a five-point scale, with one as low and five as high.<sup>149</sup> I matched low numbers with low spirituality because I anticipated that high spirituality would correlate positively with better than expected academic performance. I constructed a spirituality index based on the responses to four of the eleven survey questions. These four questions dealt with the frequency of worship,<sup>150</sup> discussions about religion,<sup>151</sup> faith and

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147. See LSAC UST Correlation Study, *supra* note 139. For these statistics, I relied on those provided in the report, which does not disclose the software package used.

148. I used Pearson's Correlation Coefficient with a two-tailed test for significance.

149. The reader will note that the actual survey had the numbers reversed. I retabulated each survey so that high-spirituality responses had high numbers. For survey questions with three responses, the low response was scored as 1, the middle response as 3, and the high response as 5. For survey questions with four responses, the low response was scored as 1, the low-middle as 2.33, the high-middle as 3.67, and the high as 5.

150. For this question, the survey stated: "I attend religious services: 1) yearly or less, 2) less than monthly, 3) monthly, 4) weekly, 5) more than weekly." Note that the responses have been reweighted from low to high. The mean was 2.61, and the standard deviation was 1.19 with a low of 1 and a high of 5. The distribution for the 97 surveys was: 17 for yearly or less, 37 for less than monthly, 16 for monthly, 21 for weekly, and 6 for more than weekly.

151. For this question, the survey stated: "I discuss religious beliefs with others outside of my faith tradition: 1) never, 2) rarely, 3) sometimes, and 4) frequently."

morality,<sup>152</sup> and vocation.<sup>153</sup> I omitted responses dealing with belief in God because the vast majority of the respondents answered that they believed in God. Therefore, this question operated as a constant for most of the subjects in the sample. The responses to the questions on prayer did not seem to fit a particular pattern.<sup>154</sup> Also, the gratitude question evoked inconsistent responses.

The four questions that I used in the spirituality index all related to the faith-based mission of the Law School. The frequency of religious worship was relevant because the Law School sets aside thirty minutes at the middle of each day for worship, prayer, and reflection. The question concerning discussions about religion outside of one's faith tradition connected well with the Law School's aim of welcoming adherents from all faith traditions and encouraging ecumenical discussions. The faith and morality question directly

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Note that the responses have been reweighted from low to high. Because the survey had only four choices, I weighted the answers on a five-point scale as follows: 1 = 1, 2 = 2.33, 3 = 3.67, 4 = 5. The mean was 3.79, and the standard deviation was .98. The distribution for the 97 surveys was: 3 for never, 13 for seldom, 53 for sometimes, and 28 for frequently.

152. For this question, the survey stated: "My belief in God is the strongest factor in my conception of right and wrong: 1) strongly disagree, 2) disagree, 3) unsure, 4) agree, 5) strongly disagree." Note that the responses have been reweighted from low to high. The mean was 3.36, and the standard deviation was 1.36. The distribution for the 97 surveys was: 12 for strongly disagree, 17 for disagree, 16 for unsure, 28 for agree, and 24 for strongly agree.

153. For this question, the survey stated: "I want to be a lawyer because of a divine calling: 1) strongly disagree, 2) disagree, 3) unsure, 4) agree, 5) strongly agree." Note that the responses have been reweighted from low to high. The mean was 2.78, and the standard deviation was 1.34. The distribution for the 97 surveys was: 20 for strongly disagree, 26 for disagree, 19 for unsure, 19 for agree, and 13 for strongly agree.

154. Comments on the survey show that responses to the prayer questions were individualistic. For example, one student wrote:

I don't believe that a God cares about, nor has any influence over, a student's exams. Praying for calm or strength is one thing, but praying for something as irrelevant/of minor importance as an exam (or law school) seems to demean the importance of other, more important matters in the world.

Another student wrote: "I don't pray to do well when I pray before an exam. I pray that, good result or bad result, my hope will still be the same." Another observed: "I rarely associate prayer and law school together—even with our mission and Catholic background."

reflected the Law School's mission. Finally, the divine calling question meshed with the Law School's emphasis on vocation.

### *C. The Results from the Study*

I added the responses to the four questions together. The range in actual scores for the spirituality index was 20 (high—the maximum possible score) to 4 (low—the lowest possible score), with a mean of 12.65 and a standard deviation of 3.76. The four questions making up the spirituality index all correlated positively with each other. Table 2 shows the correlations among the spirituality factors.

Table 2: Correlation of Spirituality Factors

n = 97	Attending Religious Services	Discuss Religion with Others	God in Moral Standard	Law as a Divine Calling
Attending Religious Services	—	0.256(*)	0.625(**)	0.542(**)
Discuss Religion with Others	0.256(*)	—	0.258(*)	0.263(**)
God in Moral Standard	0.626(**)	0.258(*)	—	0.616(**)
Law as a Divine Calling	0.542(**)	0.262(**)	0.617(**)	—

\* Correlation is significant at the 0.05 level (2-tailed).

\*\* Correlation is significant at the 0.01 level (2-tailed).

I then compared the spirituality index with the variance between the PFYA and the FYA—the variance index. Based on my working hypothesis, I expected to find a positive correlation between high spirituality and better than expected academic performance based on first-year grades. Much to my surprise, I found a negative correlation between strong spirituality and the variance index. The negative correlation was -0.255 at the 0.05 level, which is significant, but not terribly robust. However, when the 30 students with the lowest scores on the variance index (those with a score of 1.06 to 1.68 on this index) were selected, then the negative correlation between the variance index and their spirituality was much stronger. This correlation was -0.465 at the .01 level. For this relatively small group (n=32) of high-spirituality students, the negative correlation is even stronger than the positive correlation of either the LSAT (0.411 at the .01 level, n=427)

or the UGPA (0.438 at the .01 level n=427) with first-year grades when calculated using the total population.

This negative correlation suggests that a high-spirituality index adversely affects predicted academic performance. In contrast, the 30 students with the highest variance index (those who did better than predicted) had no correlation between their spirituality index and their variance index. Their variance index scores ranged from 2.16 to 2.66. The middle 37 students, whose variance index ranged from 1.73 to 2.12 and whose first-year grades were fairly close to the predicted range, had no correlation between their spirituality index and their variance index.

To explore this connection further, I divided the students into three spirituality groups: 1) high, 2) medium, and 3) low. The high group, composed of 32 students, had spirituality scores that ranged from 14.67 to 20 with a mean of 16.87. The middle group of 35 students had scores ranging from 10.67 to 14 with a mean of 12.23. And the low group of 30 students ranged from 4 to 10.33 with a mean of 8.3. Then I compared each group to the total sample by looking at the sub-group means for 1) UGPA, 2) LSAT, 3) PFYA, 4) FYA, and 5) variance index (VI). These comparisons are summarized in Table 3.

Table 3: Means for High, Medium, and Low Spirituality

	UGPA	LSAT	PFYA	FYA	VI
All n=97	3.29	155.76	2.95	2.85	1.90
High n=32	3.38	154.50	2.94	2.65	1.71
Medium n=35	3.26	155.23	2.92	2.95	2.02
Low n=30	3.22	157.73	2.98	2.95	1.97

Although some small differences in UGPA and LSAT were noticeable (slightly higher UGPA and slightly lower LSAT scores for students with high spirituality), all three groups had nearly identical means for the PFYA. The noticeable differences were in the FYA and the variance index. This difference measured actual performance against predicted performance, which can be seen by comparing PFYA with FYA. The members of the high-spirituality group had a mean FYA that was 0.29 below their PFYA. In comparison, the other two groups performed very close to expectations. Although 0.29 may seem like a small number, in terms of class rank at a law school, a



difference of this magnitude accounts for a substantial percentage of class rank. So, for example, a student with a 2.65 grade point average after the first three semesters at the University of St. Thomas School of Law would be ranked at 116 of 158 students. By comparison, a student with a 2.95 would be ranked at 85 of 158.<sup>155</sup> This is almost a 20% difference in class standing, or 31 places in the ranking.

Explaining the cause of a statistically significant correlation in two sets of numbers is essentially guesswork, which gives rise to a new hypothesis, which, in turn, requires further and more refined research. The results of the study have been a surprise to me, and therefore, have triggered a period of reflection and discussion with colleagues from within and outside the Law School at the University of St. Thomas. Further study is warranted. At this stage, consideration of possible explanations is appropriate in order to refine future research.

#### IV. POSSIBLE EXPLANATIONS FOR THE RESULTS

##### *A. Statistical Fluke*

A statistical fluke is always a possibility for a correlation that appears to arise from factors other than chance. The size and the representative nature of the sample are also important factors. The data from my survey show the strongest correlation when the variance index of the 30 worst performers is correlated with the spirituality index. This is a relatively small sample. Therefore, additional study is certainly important. Consistency in results with future surveys will show if the correlation is significant. In contrast, inconsistency will show that the correlation was a one-time fluke.

A statistical fluke might also arise because of faulty design of the survey. For example, a question may contain a level of ambiguity that leads survey respondents to provide inaccurate information because they misunderstand the question. If this misunderstanding affects a significant number in the group, then the survey responses might lead to a false correlation. I modeled my questions after those posed by

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155. This ranking is based on current data for the second-year class at the University of St. Thomas School of Law. E-mail from Jill Akervick, Law Student Servs. Coordinator, Univ. of St. Thomas Sch. of Law, to the author (Feb. 26, 2008, 12:13:00 CST) (on file with author).

professional researchers. Therefore, lack of clarity should not be a problem.<sup>156</sup>

### *B. Vocation: Integration and Balance*

A strong theme at the Law School is the importance of vocation<sup>157</sup> (divine calling) and its connection with integration<sup>158</sup> (faith and professional identity) and with balance<sup>159</sup> (accommodating professional, family, and religious priorities). Dean Jerome Organ has been working to create a culture at the Law School that is entirely different from the kind of culture found at most other law schools in the United States. He described this counter-culture in an article published in the *Journal of Catholic Social Thought*.<sup>160</sup> I discussed Dean Organ's article earlier in this piece.<sup>161</sup> In his article, Dean Organ described a Catholic law school culture in which students viewed legal study and the legal profession as one of multiple vocations lived out with an understanding of Catholic Social Teaching.<sup>162</sup> The emphasis would be on faith, vocation, and community, and not on competition and grades.<sup>163</sup> I think that a substantial number of law students at St. Thomas have listened to and incorporated this view into their legal

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156. These are the four questions used to build the spirituality index:

I attend religious services: 1) yearly or less, 2) less than monthly, 3) monthly, 4) weekly, 5) more than weekly;

I discuss religious beliefs with others outside of my faith tradition: 1) never, 2) rarely, 3) sometimes, 4) frequently (these answers were converted to a five-point scale so that 1=1, 2=2.33, 3=3.67, 4=5);

My belief in God is the strongest factor in my conception of right and wrong: 1) strongly disagree, 2) disagree, 3) unsure, 4) agree, 5) strongly agree;

I want to be a lawyer because of a divine calling: 1) strongly disagree, 2) disagree, 3) unsure, 4) agree, 5) strongly agree.

157. See Organ, *supra* note 98, at 402-13 (describing the means by which a law school can integrate vocation into its overall culture).

158. See *id.* at 361-63 (emphasizing that most of his life has been about promoting balance and integration).

159. See VIEWBOOK, *supra* note 7, front page (headlining "Balance" as a key word).

160. See Organ, *supra* note 98, at 361.

161. See *supra* text accompanying notes 96-108.

162. See Organ *supra* note 98, at 391-92.

163. See *id.* at 398.

education. It is reasonable to infer that most of the high-spirituality index students have found the University of St. Thomas School of Law to be attractive because faith, balance, and integration fit into their developed (or developing) sense of professional identity. They have seen law as a divine calling. The data from my survey support this hypothesis. One of the survey questions comprising the spirituality index included vocation:

- I want to be a lawyer because of a divine calling.
- 1) strongly disagree
  - 2) disagree
  - 3) unsure
  - 4) agree
  - 5) strongly agree

Table 4: Distribution of Responses for Divine Calling Question

Spirituality Group	HIGH	MEDIUM	LOW
1) strongly disagree	0	2	18
2) disagree	2	13	11
3) unsure	4	14	1
4) agree	14	5	0
5) strongly agree	12	1	0
Mean	4.13	2.71	1.43
Total Sample n=97	n=32	n=35	n=30

As shown in Table 4, the strong association of divine calling with the high-spirituality group suggests that Dean Organ’s message resonates with a significant number of students. Thirty-two of the ninety-seven students in the study stated that they agreed or strongly agreed with the proposition that the legal profession is a divine calling for them. The divine nature of the calling suggests that God is being, or should be, integrated into the professional formation process.<sup>164</sup> This association, however, does not explain why the academic performance of the high-spirituality group should be significantly less than the medium or low spirituality groups.

Perhaps students of strong faith, having placed God at the center of their identity, can see their place in the communities of worship,

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164. See Mengler, *supra* note 74, at 147-49.

love, friendship, family, service, and education in a balanced way.<sup>165</sup> These students have integrated their multiple vocations into their identities and have sought an integrated balance among competing interests. They are prepared to succeed in law school, but they are not prepared to subordinate other important parts of their lives that make up the multiple vocations that Dean Organ has described.

The Kuh and Gonyea article, discussed earlier, noted that higher student spirituality for undergraduate students translated into more time spent in extra-curricular activities, such as cultural events and volunteer work.<sup>166</sup> Participation in extra-curricular activities could detract from good grades by reducing study time.

Dean Organ's conception of the law student, especially at a serious faith-based Catholic law school, focuses on having multiple vocations. These multiple vocations would involve additional demands on time and require a strongly spiritual law student to put his or her legal education in its important, but proper, place.<sup>167</sup> For example, a law student who attends religious services on a daily basis has less time during the week to study. Similarly, the Law School and its many student organizations offer many and regular extra-curricular events that enhance or further its faith-based mission. In addition, it is likely that students with a high-spirituality index spend more time on volunteer and pro bono work. Attendance at these events and involvement in these activities may reduce the time available for study and, in turn, reduce academic performance. Some studies, however, have shown that amount of study time does not necessarily improve academic performance.<sup>168</sup> If this is true, then the time spent on things other than the study of law may be an unimportant variable. But until this variable is measured and assessed, the effect of reduced study time on first-year academic performance is unclear. Certainly,

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165. See Organ, *supra* note 98, at 391-92.

166. See Kuh & Gonyea, *supra* note 14, at 44.

167. See Organ, *supra* note 98, at 398 (emphasizing that students should be trying to do "their best," but they should not be trying to do "the best").

168. See, e.g., Orlando J. Olivares, *An Analysis of the Study Time-Grade Association*, 4 RADICAL PEDAGOGY (Winter 2002), available at [http://radicalpedagogy.icaap.org/content/issue4\\_1/06\\_Olivares.html](http://radicalpedagogy.icaap.org/content/issue4_1/06_Olivares.html) (explaining that previous research shows an inconsistent pattern of associations between study time and grades).

measuring time spent in study should be investigated in future research dealing with spirituality and academic performance.

Another possible explanation is that students with a high-spirituality index may get better grades over the next four semesters of law school when compared to the low and medium spirituality groups. My study focused on academic performance after the first two semesters. I used this measure because the University of St. Thomas School of Law, like almost all law schools, uses the correlation between the LSAT and the UGPA with the first-year grade point average to construct admissions criteria. The LSAC correlation study worked with these three variables. This LSAC data, however, did not consider academic performance in the last four semesters. Moreover, I could not have considered academic improvement because almost all of the subjects had two to four semesters left before graduation from law school.

My experience in law teaching leads me to conclude that students with a strong religious identity and an ongoing connection to their faith communities are quite resilient and survive law school in such a way that their motivation to succeed remains strong through all three years of law school. Although these students are unwilling to make law school the only concern in their lives, they continue to give their legal studies a balanced place of importance among other important and competing vocations. In contrast, the subset of students who seem obsessed with law school grades in an unhealthy way work the system to maintain and protect their grade point averages without much regard for learning. Finally, another subset of students, whose law school grades are mostly average, spend their time figuring out the minimum amount of work they need to do to get by.

The set of data from my study does not contain student identity. As a result, I cannot match the spirituality index of the 97 subjects and correlate it with improvements in academic performance. In future studies, I plan to retain student identity and look at longitudinal changes. Other studies have shown that the correlation between the LSAT and grades declines after the first year of law school.<sup>169</sup>

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169. See William D. Henderson, *The LSAT, Law School Exams, and Meritocracy: The Surprising and Undertheorized Role of Test-Taking Speed*, 82 TEX. L. REV. 975, 995 (2004).

### *C. Inflexible Moral Standard*

One of my colleagues on the faculty at the Law School suggested that a strong God-centered moral standard might impair a law student's ability to perform legal analysis on papers and on exams. Under this theory, students with a strong spirituality index undertake legal analysis with a preexisting and inflexible sense of right and wrong. As they look at the facts, they adopt a "right" answer approach based more on moral standards or moral instincts and less on legal standards. In these cases, the student's default cognition, so the argument goes, is so strong that it prevents the application of new knowledge (the actual legal standard). In addition, the nature of legal analysis includes identification of ambiguities in the language describing the law and the facts. These ambiguities may permit multiple arguments in favor of contrary conclusions. Arguably, this might strike a person with high spirituality as morally relativistic and, therefore, morally culpable. My survey did ask about moral standards. The survey asked this question:

My belief in God is the strongest factor in my conception of right and wrong.

- 1) strongly disagree
- 2) disagree
- 3) unsure
- 4) agree
- 5) strongly agree

The survey responses from the low, medium, and high-spirituality groups show that this is a strong factor at play in the spirituality index. Both the frequencies and the means for each group paint a picture of sharp differences in Table 5.

Table 5: Distribution of Responses to God/Morality Question

Spirituality Group	HIGH	MEDIUM	LOW
1) strongly disagree	0	1	11
2) disagree	1	4	12
3) unsure	0	11	5
4) agree	9	17	2
5) strongly agree	22	2	0
Mean	4.63	3.43	1.93
Total Sample = 97	32	35	30

From my law teaching experience, I conclude that most law students of varying religious, moral, philosophical, and political backgrounds understand after the first year of law school that legal analysis requires considerations of arguments and counter arguments. They also understand that variations in the interpretation of legal rules can and do affect the outcome. Similarly, they understand that differing inferences drawn from stated facts can change the conclusion one draws from application of the legal rule. Therefore, I doubt that a strong faith-based moral standard disables a law student from performing legal analysis and constructing an argument and a counter-argument in the context of a factual hypothetical. Finally, typical law school exams, even at the University of St. Thomas, do not usually deal with material in which a God-centered moral standard would be relevant to the analysis and, therefore, do not create a cognitive dissonance that would impair or impede ordinary legal analysis.

The difficult task for many law students during their early studies is seeing that law school exams involve a process of legal analysis in which the actual conclusions are relatively unimportant when compared to identification of issues, description of the applicable law, and the application of the law to the facts stated in the exam. A common professor's criticism of a poor essay answer to a law school exam is that it draws conclusions without providing an explanation of how the law and facts lead to that conclusion. Ambiguities in the law, in the facts, or in both, permit counter arguments that lead to a potentially different conclusion. In fact, the data from my survey suggest that a strong faith-based moral standard, by itself, does not affect academic performance. The responses to the moral standard

question on my survey do not correlate with the variance index.<sup>170</sup> The correlation arises when a student's response to this question is added to the responses of the other three questions. And it is important to remember that a student might have a very strong moral standard that arises from a source other than faith or belief in God. The question on my survey measured God's connection to the student's moral standard. I did not ask about the strength of each student's moral standard. Most likely, some students have a very strong moral standard that they connect to a process that does not necessarily rely on a belief in God.<sup>171</sup>

#### *D. The Generous Christian*

When I was discussing my study with one of my former students, he suggested that a person who is true to Christian teachings would place generosity and charity ahead of self-interest and competition. He thought that a "true" Christian would not have a strong sense of competition (no powerful desire to win in the race for top grades). Instead, such a student would help others by forming study groups, sharing materials, and spending time to help fellow students who appeared to need help. This former student thought that the "true" Christian would be willing to sacrifice limited study time if it meant being true to religious values.

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170. Interestingly, the moral standard question within my sample has a significant negative correlation with the LSAT score (-0.267 at the 0.01 level). The variance index corrects for the lower LSAT scores by looking at how students performed academically based on a comparison of the FYA with their PFYA, which was calculated from their LSAT and UGPA.

171. On the survey, one student commented:

I think I can be, and am, a "good" person without religion telling me how to be a "good" person or that I am. In fact, I might even go so far as to say I'm a better "good" person than most Christians I know. In fact, I will go so far and say (write) that.

Another student commented:

I don't think this is an accurate way to assess my spirituality (in particular) because my practice is more Buddhist. So, in letter G [God/morality question] while my belief in God is not a factor, my religious understanding of the moral imperative of compassion is the strongest factor. Similarly, my calling to be a lawyer stems from a commitment to social justice that is grounded in moral principles but not based on a belief in a divine power.



The “generous Christian” theory makes sense if the spirituality index of my survey is measuring this aspect of the Christian ethos. The questions on the survey do not attempt to measure this directly. In addition, I have used language on the survey that attempts to be non-denominational and ecumenical. For example, I do not ask how often a student goes to “church,” which applies primarily to Christian denominations. Instead, I ask about attending “religious services” so that worship activities of all religions and all their denominations would be covered. Finally, I do not ask on the survey for students to identify their religious affiliation. Nonetheless, it is likely that a very high percentage of the 97 students who completed the survey are Christian. I base this conclusion on our own survey data of incoming students.<sup>172</sup> Therefore, future surveys should include some questions about altruistic sacrifices motivated by religious values.<sup>173</sup>

Motivation is another factor, especially when linked with a desire to earn good grades. Law school culture and the legal job market definitely reward good grades. A strong motivation for good grades may improve performance on examinations. It also makes sense that preparation for exams requires a level of intensity leading to some mastery of the material and the skills that then translate into excellent grades. For example, a super-competitive student may use spare time to think about material being covered in a law school class. The intensity of the law school experience may lead to dreaming about

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172. See Univ. of St. Thomas Admissions Office, Religious Identity Survey 2006 (copy on file with author). For the four entering classes from 2002 to 2005, the percentages for religious identity were: Catholic—40%; Decline to Respond—33%; Other Christian—7%; Lutheran (ELCA)—5%; Lutheran (non-ELCA)—4%; Other (not a major religion)—3%; Other non-Christian—2%; Baptist—1%; Episcopalian—1%; Jewish—1%; Methodists—1%; Buddhist, Hindu, Muslim—less than 1% each. *Id.* This survey of religious identity shows that a third of the admitted students chose not to disclose a faith identity. My conversations with numerous students about their faith identities suggest that most of the students who have declined to respond to the Admissions survey are mostly inactive or former members of various Christian denominations. In addition, my survey asked about belief in God, and the 97 responses were: yes—77, unsure—18, and no—2. My conversations with students who are agnostics or atheists indicate that most of them grew up within a family that belonged to a Christian denomination. Nonetheless, I do know students at the Law School who are Hindu, Buddhist, Muslim, and Jewish. Their numbers at the law school, however, are small.

173. I believe that virtually all faith traditions emphasize a special obligation to help those in need.

readings and classroom experiences.<sup>174</sup> This additional cognitive activity may lead to deeper learning and better grades. By contrast, a student who is a “true” Christian may be using extra or spare cognitive moments thinking about helping others instead of considering the legal material just learned in Contracts or in Torts. Accordingly, questions about intensity of motivation to earn good grades should be incorporated in future studies looking at spirituality and academic performance.

### *E. Faith-Based Undergraduate Education*

One of the students who took the survey and who is interested in its results suggested that the negative correlation between the spirituality index and academic performance might result from the Law School’s practice of “religious affirmative action.” He assumed that admissions practices at the Law School favor those applicants with a strong faith identity over those applicants who demonstrate no particular connection to the faith-based mission but have a higher LSAT. The sample from my survey suggests that his assumption about admissions is probably valid. The spirituality index has a negative correlation with the LSAT (-0.297 at the 0.05 level) but no statistically significant correlation with the UGPA. My study corrects for the LSAT by looking at a student’s actual performance compared to the expected performance (the variance index).

The following example helps illustrate this point. Student 1 has an LSAT of 154 and a UGPA of 3.3. Student 2 has an LSAT of 160 and the same UGPA of 3.3. Using the formula developed by the Law School Admissions Council, Student 1 would have a PFYA of 2.85, and Student 2 would have one of 3.06. In my study, the variance index measures a student’s academic performance based on how much the FYA varies from the PFYA. Accordingly, the LSAT and the UGPA are excluded as variables to isolate the possible effect of the spirituality index. In the above example, if Student 1 had a FYA of 3.25, then the variance index would be 2.4 because the student did better than expected by 0.4 (PFYA of 2.85 and FYA of 3.25; the 0.4

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174. See Matthew P. Walker & Robert Stickgold, *Sleep-Dependent Learning and Memory Consolidation*, 44 NEURON 121, 121-33 (2004) (summarizing the literature showing that sleeping and dreaming enhance memory and additional learning).

positive difference is added to 2.0 to create a variance index of 2.4). By comparison, if Student 2 had a FYA of 2.76, then the variance index would be 1.7 (PFYA of 3.06 and FYA of 2.77; the 0.3 negative difference reduces 2.0 to create a variance index of 1.7). Comparing Student 1 to Student 2 shows that Student 1 did substantially better than expected and Student 2 did substantially worse than expected. In addition, two students might have the same FYA but substantially different numbers on the variance index because of individual differences in the LSAT and UGPA.

After I explained this to my student, who seemed to be asserting that students with a high-spirituality index would have, as a group, lower LSAT scores, he immediately suggested that this group of students would have, as a group, an inflated UGPA. He added that this made sense to him because the students with a high-spirituality score would likely come from faith-based undergraduate institutions. He had come from such an institution and is a person of strong faith. This student asserted that the course of study resulting in a high UGPA from such an institution did not necessarily reflect the same amount of exposure in critical thinking as found at secular colleges and universities.

At first glance, the data suggest that he may be correct. Table 6 reviews the characteristics of the high-spirituality group compared to all students from the entering classes for 2004, 2005, and 2006. Interestingly, a comparison of the correlations for these two groups suggests that the UGPA is a significant and even stronger predictor for this group when compared to the entire population. The LSAT turns out to have no statistical significance for the high-spirituality group even though the spread and distribution of scores are similar to the entire survey group and to the entire population from the LSAC correlation study.<sup>175</sup>

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175. The standard deviation for the LSAT for the high-spirituality group (n=32) is 4.997 and for the LSAC population (n=427) is 4.93. This suggests a similar distribution. In addition, the survey sample (n=97) and the LSAC population (n=427) have very similar characteristics. See *supra* p. 116, tbl. 1.

Table 6: Comparison of Means for High Spirituality & Entire Population

Mean Scores	LSAT	UGPA	PFYA	FYA
Survey n=32	154.50	3.37	2.94	2.65
04 – 06 n=427	155.26	3.31	2.90 <sup>176</sup>	2.87

The data from Table 7 suggest that the UGPA is a strong predictor of success in the first year of law school and that the LSAT has no predictive value for the high-spirituality group. Certainly, this is a tentative and important conclusion worthy of further exploration. The data from Table 7 potentially rebut my student’s contention that a strong UGPA from a faith-based undergraduate institution is a “watered-down” credential. Instead, if most of the high-spirituality students came from faith-based colleges and universities, then the data would show that the UGPA from these schools is a strong credential. This is only a tentative conclusion, however, because my survey eliminated student identity. I cannot link undergraduate institutions with the subjects. This will be a matter for future study.

Table 7: LSAT and UGPA Correlations Comparing High Spirituality With Entire Population

Correlation	LSAT/FYA	UGPA/FYA
Survey n=32	0.276 <sup>177</sup>	0.484
04-06 n=427	0.411	0.438

*F. Family First*

I developed my hypothesis for this study during my second year of teaching at the University of St. Thomas. My working hypothesis was that students with a strong faith identity should do better than expected at a faith-based law school. I recall describing my hypothesis to a third-year student who had taken my Federal Income

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176. The LSAC Study did not provide a mean for the PFYA. Therefore, I calculated this number using the LSAC formula and the population means (n = 427) for the LSAT and the UGPA.

177. SPSS indicates that this correlation has no statistical significance even though it appears large enough to be significant. The other three correlations are statistically significant at the 0.01 level.

Tax class. He was a student viewed by most of the faculty as very positively connected to the Law School's faith-based mission. He also was a student who did extremely well academically. I thought that he would agree with my hypothesis. Instead, he immediately disagreed. When I asked why, he explained that most students of faith would be married (some with children) and that these family commitments would always trump law school and disable these students from doing well academically. His hypothesis was based on the assumption that married students and those students with children would have had a stronger faith identity than unmarried individuals without children.

Our conventional wisdom is that marriage and the raising of a family involve events that increase faith and connections to faith communities. After one of the students took the survey, he stopped by my office to tell me his faith story. That story fits into the pattern that marriage increases spirituality. In his case, he had grown up a Catholic but admitted that he had not been a terribly committed adherent. He had recently fallen in love and gotten married. His wife was a member of another Christian denomination. He started attending her church and then decided to convert. He concluded his story by emphasizing that his marriage and conversion had deepened his spirituality immensely. Other students who have had children while in law school have expressed to me that the experience had deepened their spirituality.

Nonetheless, over the years of my teaching, I have seen many of the most academically successful law students balance their legal studies with their commitments to their spouses, children, and their faith communities. Moreover, I know many deeply religious people who are not married and who do not have children. In any case, my survey did not measure marital status or parental circumstances. Accordingly, this possible explanation will have to await further research.

### *G. The Brotherhood*

One fellow academic whom I met at a conference sponsored by the Society for Research in Higher Education<sup>178</sup> thought that students

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178. I presented the findings of my study at the 2007 Conference of the Society for Research in Higher Education in Brighton, England, December 12, 2007.

with a strong faith identity would believe that they did not need to work hard because their faith community would help them professionally without regard to their law school grades. Put another way, these students would feel comfortable coasting because their contacts within their faith community would always see them through. Such a hypothesis relies on the assumption that faith identity and membership within a faith community provide a workable “old-boys” network for getting jobs.

In a more general context, some research shows that membership in a faith community does have economic consequences.<sup>179</sup> And I must confess that the brotherhood theory has some appeal because many people benefit from connections established through social and professional networks. The reality, however, is that most jobs involve an employer who makes a quality assessment for each applicant. Certainly, grades in law school are part of that process for many legal employers. In addition, most law jobs are filled through a competitive process. But, admittedly, the religious network often helps someone to find out about an opening or to use more influential references. Finally, someone who is a member of the same faith community will probably figure out that a better resume, which may involve having good grades, might help get the job over someone with less impressive credentials. The brotherhood hypothesis really makes sense only if there is an excess of non-competitive jobs, which is really not the case. A first-year law student needs to feel that a good job is a sure thing even with less than average grades.

A parallel situation arises for many students who attend part-time programs while working full time. Many of these students have law-related jobs in which they are likely to receive a promotion if they graduate from law school and if they pass the bar exam. I have taught in evening programs over the years and have found that most of the part-time students who already have jobs that they plan on keeping

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179. See, e.g., DAVID SLOAN WILSON, *DARWIN'S CATHEDRAL: EVOLUTION, RELIGION, AND THE NATURE OF SOCIETY* 125-88 (2002) (describing instances of the secular advantages belonging to religious groups including economic benefits); Jonathan H. Gruber, *Religious Market Structure, Religious Participation, and Outcomes: Is Religion Good for You?*, 5 *ADVANCES ECON. ANALYSIS & POL'Y* 1, 24 (2005) (using census data to show that economic well-being increases with the population density of fellow adherents, which suggests that faith communities provide tangible and intangible forms of mutual support).

still want to do well academically because they like the idea of possibly getting a better job based on good grades in law school. As a result, I think that most first-year law students with a strong faith identity want to do well, especially if it means being able to succeed in a profession in which they feel a calling from God. In any case, the brotherhood theory is worth exploring in further research by asking questions about future employment and whether connections within a faith community will help in getting a job.

### CONCLUSION

This study suggests that a student's strong faith identity at the University of St. Thomas School of Law has a negative correlation with first-year grades. The findings of this study need to be further tested here and elsewhere by secular- and faith-based law schools. This research area is in its infancy, and my initial exploration is but a small window providing some insight into spirituality and its effect on academic performance. Future research should look at related factors that may affect academic performance. These factors include outside time commitments, time spent studying, family status, motivation, and undergraduate institutions. It may be that students with a strong faith identity start slowly but gain momentum and ultimately outperform their colleagues with a weaker faith identity. Therefore, future research needs to monitor academic and professional development after the first year. This may show robust medium- and long-term success for this subset of students.

More importantly, this study should remind us that law school grades are only one of the ingredients that go into producing fine lawyers. Obviously, not everyone can graduate in the top ten percent of the class. Through vocational integration and balance, however, all law students can enhance their ethical and moral formation while in law school. Indeed, if this happens, the legal profession can improve.

This final point about vocational integration and balance allows me to tell a story<sup>180</sup> about one of my first law students who was enrolled in a pre-law summer program at the University of New Mexico. From the first day I met her twenty-six years ago, I knew her to be a person of faith and generosity. The pre-law summer program and law school were a struggle for her. Relying on her faith for strength, she just kept on facing and overcoming every challenge. Even with her own challenges, she was always there to help others in time of stress or trouble. Her first two jobs out of law school were also struggles. She performed well, but she was unhappy. A few years out of law school, she finally connected with an effective mentor who helped her find her special calling within the legal profession. She soon became a successful bankruptcy lawyer who now has a thriving consumer bankruptcy practice in southern New Mexico. She is making a living and making a difference. She told me that God and her Catholic faith have been with her all the way. Her clients love her, and she loves her work. She is happy and fulfilled, doing God's work even though she did not have great grades. This vibrant, successful lawyer helps financially distressed clients find a new future and proves that first-year grades in law school are not everything.

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180. Narratives are a critical part of the learning process. *See, e.g.*, JAMES E. ZULL, *THE ART OF CHANGING THE BRAIN: ENRICHING THE PRACTICE OF TEACHING BY EXPLORING THE BIOLOGY OF LEARNING* 228 (2002). Professor Zull explains that “[r]ecalling and creating stories are key parts of learning. We remember by connecting things with our stories, we create by connecting our stories together in unique and memorable ways, and we act out our stories in our behaviors.” *Id.* at 228.



## Appendix A—Survey Questions

A. I believe in God.

- 1) yes
- 2) unsure
- 3) no

B. I believe in a Divine Being or Creator.

- 1) yes
- 2) unsure
- 3) no

C. Regular prayer is a very important part of my life.

- 1) strongly agree
- 2) agree
- 3) unsure
- 4) disagree
- 5) strongly disagree

D. I attend religious services

- 1) more than weekly
- 2) weekly
- 3) monthly
- 4) less than monthly
- 5) yearly or less

E. When under stress, prayer helps me get through the rough spots.

- 1) strongly agree
- 2) agree
- 3) unsure
- 4) disagree
- 5) strongly disagree

F. I discuss religious beliefs with others outside of my faith tradition.

- 1) frequently
- 2) sometimes
- 3) rarely
- 4) never

G. My belief in God is the strongest factor in my conception of right and wrong.

- 1) strongly agree
- 2) agree
- 3) unsure
- 4) disagree
- 5) strongly disagree

H. My religious identity helps my academic achievement in law school.

- 1) strongly agree
- 2) agree
- 3) unsure
- 4) disagree
- 5) strongly disagree

I. I want to be a lawyer because of a divine calling.

- 1) strongly agree
- 2) agree
- 3) unsure
- 4) disagree
- 5) strongly disagree

J. I regularly express gratitude to God for the blessings in my life.

- 1) frequently
- 2) sometimes
- 3) rarely
- 4) never

K. I pray before exams in law school.

- 1) almost always
- 2) sometimes
- 3) rarely
- 4) never

