Academic Innovation Committee on the Robson Hall J.D. Curriculum: Consultation Paper* 

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ACADEMIC INNOVATION COMMITTEE
ON THE
ROBSON HALL J.D. CURRICULUM:

CONSULTATION PAPER

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PART A. PRELIMINARY MATTERS

1) EXECUTIVE SUMMARY

A. BACKGROUND

Just over two years ago, in the fall of 2011, the Academic Innovation Committee was created to lead the first phase of a three-phase process of curriculum review at Robson Hall. The last comprehensive review and reform of the curriculum took place in 1982, nearly 32 years ago.

The review was prompted in part by the 2011 publication of the Federation of Law Societies (FLS) Implementation Report which sets out uniform national requirements for all Approved Common Law Degree programs across Canada. The FLS Implementation Report requires that law schools ensure that all JD graduates meet specific minimum competencies in knowledge, skills and ethics and professionalism in order for the school to remain accredited.

The Robson Hall Curriculum Reform Report for Stakeholder Discussion is the result of two years of work with contributions by past and present committee members, and ultimately has been produced by the current committee chaired by Mary Shariff and Debra Parkes.

The full Report will be shared with all faculty members, current law students, alumni, the legal profession in Manitoba and the Law Society for their consideration and input into the discussion before any final decisions are made by Faculty Council, and before an implementation committee begins its work.

B. THE MANDATE

The mandate of the Academic Innovation Committee is to propose a program objective for the J.D. program, agree on learning outcomes, and define principles to guide curriculum reform.

C. THE COMMITTEE’S METHODOLOGY

The Committee took an evidence-based approach to curriculum reform.

The Committee examined evidence drawn from the following sources:

- the current curriculum,
- the 1982 Robson Hall curriculum reform report,
- the Federation of Law Societies Implementation Report of 2011 (FLS Implementation report),
- the FLS National Entry Level Competency profile,
- faculty input,
- literature on legal education reform,
- the curricula of other Canadian law schools,
- Bloom’s taxonomy for education, and
current research into adult education generally and legal education specifically.

Drawing observations from the evidence, the Committee engaged in discussion and debate to create recommendations which in turn informed the Committee's recommended Program Objective, Guiding Principles and Learning Outcomes for the J.D. program at Robson Hall.

Ultimately, the Committee has created an option for the J.D. program, recommended and diagrammed at the conclusion of this report, which is consistent with those identified Learning Outcomes, Guiding Principles and Program Objective.

D. BRIEF DEFINITIONS OF TERMS USED

Program Objective: This is a description of the overall objective of the J.D. program and answers the question, "What do we want to offer all students who come to Robson Hall for their legal education?"

Guiding Principles: These are the principles that are to inform and direct the overall organization of the program of instruction to be determined by the implementation committee.

Learning Outcomes: These are a list of the knowledge, skills, and attitudes which all students should have by the time they graduate from the J.D. Program.

E. EVIDENCE REVIEWED BY THE COMMITTEE

1. The Current Curriculum

The Robson Hall J.D. requires 97 credit hours of course work which includes 57 credit hours of mandatory courses over the three years of the program. All courses are categorized as either doctrinal, perspective or clinical and each year contains a mix of all three categories. The 33 credit hours of courses in first year are all mandatory. The curriculum has been amended on an ad hoc basis since the last comprehensive reform in 1982, but the basic structure of that reformed curriculum is unaltered.

2. Past Curriculum Reform Initiatives At Robson Hall

In 1982, a curriculum reform committee chaired by Professor Philip Osborne created a proposal for a new curriculum at Robson Hall that was debated, amended and adopted by a vote of the faculty council. The details of the reform, the rationale and the process were explained in a journal article authored by Professors Osborne and Alvin Ebsen titled "Curriculum Reform at Robson Hall" (1990) Man L.J. 605. The goal was to enable students to achieve a balance among a selection of doctrinal, perspective and clinical courses by requiring students to take courses from each category, increasing the complexity of the material over the three years with a commitment to a coherent, rational and flexible policy. Student choice was recognized as an important factor but in the context of the new curriculum, choice was essentially limited to the third year of study.
3. The Federation of Law Societies
   a. The FLS Implementation Report
      The FLS Implementation Report of 2011 sets out uniform national requirements for all Approved Common Law Degree programs across Canada. The FLS Implementation Report gives latitude to all law schools to determine how the competencies will be taught but it requires each law school to report annually on how the school is fulfilling the minimum national standards. In order for Robson Hall to remain accredited, it will have to ensure that all its JD graduates meet specific minimum competencies in specified areas of knowledge, skills and ethics & professionalism.

With approximately 57 credit hours of mandatory courses out of 97 credit hours for a JD, Robson Hall's current curriculum easily meets the competencies requirements of the FLS Implementation Report.

b. The FLS National Entry-level Competency Profile
   The FLS has distinguished between requirements of entry into bar admission programs (articulated in the Canadian Common Law degree competencies which must be met for law school accreditation) and requirements for entry into the profession (articulated in the National Entry-level Competency profile competencies which must be met by law graduates seeking their Call to the Bar).

   The FLS published a report setting out those further competencies required of law graduates to be called to the Bar. Those competencies are "an understanding of the legal principles of Family Law, Wills and Estates and the Law of Evidence".

   The AI Committee recommends that students be informed of the FLS National Entry-level Competency Profile in Robson Hall promotional material and literature prior to acceptance in the J.D. program as well as throughout the program and that the program annually offer options which would permit JD students to meet those FLS National Entry-level Competencies if desired.

   The AI Committee believes that law schools can both pursue higher education objectives (inter alia, analytical rigor and substantial knowledge, promotion of a deeper understanding of knowledge claims, and the capacity to critique these knowledge claims) and contribute to the practice readiness objective in the J.D. curricula. The AI Committee does not see those objectives as mutually exclusive and sees its task in formulating a program option as achieving an appropriate balance between those goals.

4. Faculty Input into Curriculum Reform
   The AI Committee sought faculty input into the questions surrounding curriculum reform, including the impact of the FLS Implementation Report. Faculty members completed an online
questionnaire, were interviewed by AI Committee members and participated in a facilitated discussion at a faculty retreat.

Most faculty members expressed some support for the principles underlying the 1982 Reforms. The goal in 1982 was to integrate skills, knowledge and perspectives in each year of the LLB program, gradually increasing the complexity and depth of the program as the years progressed. Many Faculty members observed that the current curriculum was not achieving this objective.

Criticism of the current curriculum included:

- students were not getting adequate instruction and reinforcement of the skills of legal research, analysis and writing;
- the substantial mandatory course load limited opportunities for students to choose courses and follow their own interests in the law; and
- the program did not accommodate a diversity of courses which would take advantage of the research expertise of our faculty;
- limited resources that affected student choice.

Overall, there was an appetite among the faculty for curricular review and appropriate reforms.

5. Selected Literature Review

a. Law School Curriculum Reform - General Trends
   i) There is no standard curriculum for law schools. The most recent literature on law school curricular reform supports the concept of integration of theory, doctrine and practice (Studley Report, Best Practices in Legal Education) or doctrine, practice and professional ethics in pursuit of the goal of professional identity (Carnegie Report). Modelling professional behaviour and practical skills, problem-solving or problem-centred approaches to teaching were identified as methods that might support integration.

   ii) Preparation of students to be competent and ethical lawyers and exposing law students to interdisciplinary, philosophical and sociological dimensions of law are objectives that are often presented as being in tension or in conflict.

   iii) There is general acknowledgment in the literature that despite any tension between practice and academia, law students must be able to act with integrity, think critically, reflect on their learning and have excellent communication skills.

   iv) The literature identifies the development of self-reflection and lifelong learning skills, understood as helping students learn how to learn from experience i.e. teaching
students how to analyze their performances and generalize from those experiences, is identified as an important goal of a law school curriculum.

v) Significant barriers to reform have been identified and include resource limitations, faculty member experiential bias ("the way I learned the law is the best way to learn the law"), and lack of knowledge and skills in management and education theory.

b. Resolving Practice-Ready Versus Academic Tensions

i) The perceived conflict between a curriculum geared to producing practice-ready graduates and a curriculum reflective of law as an academic discipline has been described by academic Will Rhee as follows:

"the theory-practice divide assumes that legal academics are concerned primarily with legal theory to the exclusion of legal practice and that legal practitioners are concerned primarily with legal practice to the exclusion of legal theory."

ii) Prof Rhee argues that this is a false dichotomy. He describes the relationship of theory to practice as a relationship along a "micro-macro continuum" of law and, acknowledging that legal academics tend to specialize in macro law and legal practitioners tend to specialize in micro law, observes that legal practitioners and legal academics can all engage in both micro and macro law across that continuum.

iii) In the Committee's opinion, viewing all legally trained persons as "legal actors" playing roles that take place at different places on the continuum from "micro law" to "macro law" at different times and in different circumstances helps resolve the tension between the vision of the law school as a place to train future lawyers for practice and as a site for higher education. His explanation is summarized in more detail in the report.

6. Pedagogical and Teaching Considerations

a. Bloom's Taxonomy

i) Developed by an educational psychologist, Bloom’s taxonomy is a classification system of the intended student behaviors relevant to intended learning outcomes of the educational program. Bloom’s taxonomy, with very slight variation, is prominently featured in education reform.

ii) The taxonomy divides learning objectives ("at the end of this course, students should be able to . . .") into three domains:
(1) Cognitive/knowledge
(2) Skills (psycho-motor), and
(3) Affective/attitudes

iii) In each domain, the intended student behaviours are progressively more complex. For example, in the cognitive/knowledge domain, intended student behaviours representing the intended outcomes move from the lowest level of simply remembering the knowledge, through understanding, applying, analyzing, and evaluating to creating new knowledge, the pinnacle of the cognitive/knowledge domain.

b. Self-Directed Learning
In addition to understanding generally how a student learns, educational researchers have turned their minds to the particular issue of self-directed learning, including the development of models and frameworks that integrate self-directed methods of learning into a given program. One particular model by Gerald Grow identifies how students can become increasingly self-directed in their learning. The model takes into consideration the student’s stage of self-direction as well as a given instructor’s particular teaching style. Grow emphasizes that the role or style of the teacher must match the learning stage of the participants and that good teachers: (1) modify teaching to match the learner’s stage of self-direction, and (2) allow students to become more self-directed in their learning.

c. Life-Long Learning
It is clear that the legal profession has identified the importance of developing practitioners to be life-long learners. The goals of life-long learning are myriad ranging from socio-economic survival, professional competence and capacity to engage in active citizenship. Dunlap and Grabinger (2003) argue that preparation of students as lifelong learners involves developing the capacity for self-direction, metacognitive awareness and a disposition towards learning.

The AIL Committee recommends that the Implementation Committee apply Bloom’s Taxonomy and other student-learning best practices to establish a curriculum that will:

a) enable students to engage in and achieve increasing levels of complexity in the knowledge, skills, and attitudes domains; and

b) encourage students’ development as self-directed, self-reflective and life-long learners as they progress through the J.D. Program.

7. Comparison of Robson Hall Curriculum to Other Law Schools
In early 2012, a cursory review of the mandatory courses in the other Canadian law schools revealed that
- Manitoba's mandatory first year courses of Property, Contracts, Torts, Legal Research & Writing were similar to most other law schools' mandatory first year courses.
- Robson Hall's first year Judge Shadowing program is unique.
- Criminal and Constitutional law, taught in first year in Manitoba, were sometimes taught as mandatory courses in upper years in other schools.
- Manitoba's mandatory upper year courses in Income Tax, Family Law, Evidence, Business Organization, Advocacy, Negotiation, Administrative Law and Trusts were not mandatory in most other Canadian law school curricula.

8. **Novel Initiatives - Ontario**
   
a. **The new 4 month articling program**
   i) The Law Society of Upper Canada articling task force in Ontario submitted a final report in October 2012 recommending the creation of a new Law Practice Program (LPP) of a 4 month cooperative work placement with a skills-training program that would provide an alternative to the current articling path to licensing.
   ii) The report noted that "experiential training must play an increasingly important part in the law school curriculum."
   iii) On November 21, 2013, the Law Society of Upper Canada announced that the English and French Law Practice Programs would be provided, respectively, by Ryerson University and the University of Ottawa.

b. **Lakehead 3-year practice ready program**
   i) On November 21, 2013, the Law Society of Upper Canada announced that it had approved Lakehead University’s “Integrated Practice Curriculum” (IPC), which it characterized as “another innovative option for fulfilling the experiential training component of its licensing requirements.”
   ii) Lakehead University described the IPC as:
      1. integrating legal skills with substantive legal knowledge, offering meaningful experiential education to all of its students.
      2. mirroring the training and placements offered in other professional programs such as medicine, nursing and education
      3. Skills are taught progressively and coordinated so that they build one upon the other – course by course, year by year.
      4. Students enrolled in the three year JD program at Lakehead will complete integrated practice training and do placements within their three year degree.
F. **Recommended Program Objective, Guiding Principles, Learning Outcomes Derived from the Evidence**

1. **Program Objective**
   The objective of the J.D. program at Robson Hall should be:

   To deliver a rigorous and student-centered program that engages students in an enriched conception of legal practice as knowledgeable skilled problem solvers, critical thinkers and creative actors, attuned to law in context and with a developing identity as humane, ethical and reflective professionals.

2. **Guiding Principles**
   The following principles should guide the organization of curriculum development at Robson Hall:

   a. **Progression:**
      The J.D. curriculum should provide increasing complexity and sophistication in each of the three years in accordance with pedagogical best practices so that students are presented with progressively more intellectually challenging problems as their knowledge, practical judgment, self-direction and lifelong learning skills develop allowing students to experience a sense of continuing growth and achievement.

   b. **Flexibility:**
      The J.D. curriculum development framework should be flexible enough to accommodate changes in legal education, legal thinking and in the legal system itself.

   c. **Coordination:**
      Course offerings should not simply be a function of autonomous professorial interest nor can they be subject to the exercise of non-transparent administrative discretion. Existing courses and the addition or deletion of courses offerings should take place within a coherent and rational policy framework consistent with the Program Objective.

   d. **Congruence:**
      Congruence should be understood as instructional alignment: each course has outcomes consistent with the Learning Outcomes and aligned with the Program Objective, which in turn, is aligned with the law school’s mission. Coordination and connecting teaching and assessment methods to Learning Outcomes are important to achieving congruence.
e. **Integration:**
The J.D. curriculum should achieve the integration of the knowledge, skill, and attitudinal aspects of legal education in a variety of ways. Integration may occur within or across courses. Coordination is important to achieving Integration.

f. **Student Choice:**
The J.D. curriculum should be designed to afford students a significant measure of freedom in designing their program of study in order to:

1. develop the skills of self-directed learning and in turn, lifelong learning; and
2. to reflect their academic preferences and professional aspirations.

Like other guiding principles, student choice is important but not paramount. It must be balanced with other principles, including Progression, Flexibility, Coordination, Congruence and Integration.

g. **Research Optimization:**
There should be deliberate consideration of, and maximized reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

3. **Learning Outcomes and the Proposed Option for the J.D. Program**
The diagram on the next page, with accompanying description, sets out the AI Committee's proposal for aligning the J.D. curriculum, in pursuit of the Program Objective, to enable students to meet defined Learning Outcomes.
Descriptive Overview of the Proposed J.D Program Option for Learning Outcomes

The foundation for the proposed option reflects the Committee’s decision to commit to defining the curriculum in the language of Learning Outcomes. Learning Outcomes are "the knowledge, skills and attitudes the students are expected to have by the time they graduate from the J.D. program." In order to achieve that goal – i.e., that every student obtain particular knowledge, skills and attitudes – the Committee agreed that there must be certain mandatory content.

The Committee took an evidence-based approach to identify what that mandatory content should be. Similarly, the Committee took an evidence-based approach to determine the optional content. It is important to note that all content whether mandatory or optional is expressed within the language of knowledge, skills and attitudes. Accordingly, a given course may cover a range of knowledge, skills, and attitudes. For example, knowledge content can be delivered through the vehicle of skills and vice versa. The proposed option diagram reflects this knowledge, skills and attitudes framework.

Additionally, the J.D. Program option developed by the Committee is consistent with the Committee’s identified Program Objective, namely “To deliver a rigorous and student-centered program that engages students in an enriched conception of legal practice as knowledgeable problem solvers, critical thinkers and creative actors, attuned to law in context and with a developing identity as humane, ethical and reflective professionals.” It is also developed with the Guiding Principles of Progression, Flexibility, Coordination, Integration, Student Choice.

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1 These three areas of knowledge, skills and attitudes are educational objectives identified pursuant to Bloom’s taxonomy – a widely accepted basis for developing and organizing a post-secondary curriculum. In general terms, the approach requires a school to first identify the specific attitudes, knowledge and skills it intends its students to learn. The school then develops a program that delivers learning opportunities, teaching strategies and assessment methods that result in the desired learning outcomes for the students. There are also accepted models of curriculum development based on Bloom’s taxonomy that help to ensure the progressive development of required levels of desired attributes, skills, and knowledge throughout the course of an educational program. These models provide necessary guidance in implementing the proposed option for the J.D. Program. For further details regarding Bloom’s Taxonomy and the Committee’s rationale for relying upon it and additional learning theories relevant to it, see AI Committee Report, “Pedagogy, Learning and Teaching Considerations,” Section 12.

2 Learning Outcomes definitions can be found in Section 4 of the AI Committee Report, “Committee Process for Generating Options for J.D. Program.” See also generally discussion in AI Committee Report, “Pedagogy, Learning and Teaching Considerations,” Section 12.

3 For a more detailed description of this process see Section 4 of the AI Committee Report, “Committee Process for Generating Options for J.D. Program.” Evidence examined included: The Current Curriculum; Past curriculum reform initiatives at Robson Hall; The Federation of Law Societies and the Canadian Common Law Degree; Comparison of Current Robson Hall Curriculum and JD Competencies; Faculty Input into Curriculum Reform; Law School Curriculum Reform – General Trends, Revising Practical Study versus Academic Tutorials, Pedagogical and Teaching Considerations; Comparison of Robson Hall Curriculum to Other Law Schools; and Novel Initiatives – Ontario. See AI Committee Report, Sections 5-14.

4 AI Committee Report, “Program Objective and the Committee Recommendations in Support,” Section 15 A.
and Research Optimisation in mind – all of which have been identified and defined through the same evidence-based approach.

a. Mandatory Knowledge
In the proposed option diagram, these areas of mandatory knowledge, skills and attitudes are represented in the colours dark blue, dark purple and red respectively. The Committee recommends that the J.D. program require each student to complete course work that covers all these knowledge outcomes.

The mandatory knowledge content includes:

1. The mandatory knowledge competencies required by the Federation of Law Societies of Canada for the accreditation of a J.D. program. (In above figure, "FLS Mandatory Knowledge Content");
2. Mandatory knowledge that the AI Committee recommends based on evidence from Faculty Input into Curriculum Reform. (In above figure, “Recommended Additional Mandatory Knowledge Content”).

b. Mandatory Skills
The mandatory skills content are represented in the colour dark purple. Mandatory skills include:

1. The mandatory skills competencies required by the Federation of Law Societies of Canada for the accreditation of a J.D. program. (In above figure, "FLS Mandatory Skills Content");
2. Mandatory skills that the AI Committee recommends based on evidence from:
   a) the FLS National Entry-level Competency Profile (which lists skills needed in the first five years of practice) as well as input from faculty surveys and the Faculty retreat in August 2013.
   b) These additional mandatory skills are skills of a more technical nature and include trial advocacy, advanced legal writing (memo and research paper); and dispute resolution: negotiation (In above figure, “Recommended Additional Mandatory Skills Content A”); and

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5 For Guiding Principles definitions, see AI Committee Report, “Guiding Principles and the Committee Recommendations in Support”, Section 16.B.
6 For further detail regarding the FLS requirements and the AI Committee’s recommendation that these be adopted in mandatory requirements of the J.D. Program, please see generally AI Committee Report, “The Federation of Law Societies and the Canadian Common Law Degree”, Section 7. In particular see see “Observations” at Section 7.5 and “Recommendations” at Section 7.6.
7 See discussion in AI Committee Report, “Faculty Input into Curriculum”, Section 9. In particular see Recommendation 9.6.
8 Supra note 6.
9 See discussion in AI Committee Report, “Federation of Law Societies National Entry-level Competency Profile”, Section 7.5. In particular see Recommendations 7.5 and 7.6.
10 See discussion in AI Committee Report, “Other Broad Themes Arising from Faculty Interviews”, Section 9.1.2; “Additional Outcomes Relating to Substantive Law”, Section 9.1.3. In particular see and Observation 9.5 and Recommendation 9.3.
b) Mandatory skills that the AI Committee recommends based on evidence from the
Literature review as well as input from Faculty surveys and the Faculty retreat in
August 2013. These additional mandatory skills are skills of a more general nature
and relate to the development of interpersonal communications; problem-solving
and creative-thinking; ability to work collaboratively; critical analysis of law, and
directed learning (in above figure, “Recommended Additional Mandatory Skills
Content 1”).

2. Mandatory Attitudes
The mandatory attitudes are represented in the field dark red. Mandatory attitudes include:

1. The mandatory attitude competencies required by the Federation of Law Societies of
Canada for the accreditation of a J.D. program. (In above figure, “FLS Mandatory
Attitudes”).

2. Mandatory attitudes that the AI Committee recommends based on Faculty Input from
August 2013, the Stucby and Carnegie reports and the pedagogical literature. These
attitudes include the attitudes of self-reflection and life-long learning.

d. Optional Knowledge
There are three categories of optional knowledge content which are represented in the colour
light blue:

1. The first category is knowledge content that the program must deliver through its course
offerings so that students always have the option to pursue this content during the course
of their J.D. studies. The Committee recommends this content based on the FLS National Entry-
level Competency Profile and the competencies required for admission to the bar (e.g. entry
to the legal profession). This knowledge content includes the Law of Evidence, Family Law
and the Law of Wills and Estates. Note that the Law of Evidence and Family Law are both
mandatory in the current J.D. curriculum. (In above figure, “National Entry Level
Competency Profile Recommended Optional Knowledge Content A”).

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11 See discussion in AI Committee Report, “Selected Literature Review: Law School Curriculum Reform - General
Trends”, Section 9B. In particular please see Recommendations 9.3 and 10.7.
12 See discussions in AI Committee Report, “Faculty Input into Curriculum”, Section 9D. In particular please see
13 See discussion in AI Committee Report, “Faculty Input on Additional Learning Outcomes from August 2013
Retreat”, Section 9D.
14 See generally AI Committee Report, “Selected Literature Review: Law School Curriculum Reform - General
Trends”, Section 10. In particular see Recommendation 10.7.
16 See AI Committee Report, “Federation of Law Societies National Entry-level Competency Profile”, Section 7.6;
In particular see Recommendation 7.5.
2. The second category is knowledge content from which students may choose course offerings in order to assist them to develop the skill of "Self-Directed Learning" and to pursue their unique academic and professional preferences. Under this second category, content on offer may vary from year to year, but there will be some content that the Committee recommends be offered every year (such as, for example, Tax and Trusts). The Committee recommends this approach based on past curriculum reform initiatives at Robson Hall,\(^1\) faculty input into curriculum reform,\(^2\) and the literature review regarding pedagogical and learning considerations.\(^3\) This optional knowledge content is presented as categories premised on the general fields of law currently on offer in the J.D. program (e.g., Indigenous Law, Human Rights Law, Business Law and so forth). Note that there may be alternative ways to categorize this knowledge content. Note also that knowledge content that is mandatory in the current J.D. program is marked with an asterisk. (In above figure, "Optional Knowledge Content B").

3. The third category is knowledge content that the program may deliver through its course offerings and is recommended by the Committee based on Faculty Input into Curriculum Reform\(^4\) and the literature review.\(^5\) It is a special category of knowledge content driven by the research interests and expertise of faculty members. The Committee recommends this content based on the Guiding Principle of Research Optimization and a view to optimizing the J.D. program for the pursuit of knowledge and research excellence. Examples here may include: Legal History, Law and Bioethics, Law and Popular Culture (In above figure, "Optional Knowledge Content C").

e. **Optional Skills**

This is skills content that the program may deliver through its course offerings to assist students to develop the skill of "Self-Directed Learning" and to pursue their unique academic and professional preferences. Note that under this category, skills content on offer may vary from year to year. The Committee recommends this approach based on the past curriculum reform initiatives at Robson Hall, faculty input into curriculum reform, and the literature review regarding pedagogical and learning considerations.\(^6\)

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\(^1\) See All Committee Report, "Past Curriculum Reform Initiatives at Robson Hall", Section 6. In particular see Observation 6.1 and Recommendation 6.1 infra.

\(^2\) See All Committee Report, "Faculty Input into Curriculum", Section 9. In particular see Recommendations 9.9 infra.


\(^4\) See All Committee Report, "Faculty Input into Curriculum", Section 9. In particular see Observation 9.9.

\(^5\) See All Committee Report, Recommendations 10.3 and 12.5 infra.

The optional skills content presented are examples that simply describe more advanced versions of the mandatory legal skills (e.g., advanced legal writing: practice or advanced legal writing: research) or the practice of the mandatory legal skills in more complex or advanced settings (e.g., in French or with live clients).

Note that with respect to the "Legal Practice in French" skill, the Committee recommends (Recommendation 9.13) that students always be assured of the opportunity to pursue this skill during the course of their J.D. studies. In the Committee's opinion, Rhetoric Hall has a responsibility to ensure that all students have an opportunity to acquire the skills necessary to give effect to the constitutionally guaranteed language rights of members of Manitoba's francophone minority.

5. Links / Arrows

The AI Committee highlights the skill of "Self-Directed Learning" and links it to optional skills and optional knowledge. Students will develop their self-directed learning skills (a mandatory skill requirement) through choosing and acquiring optional skills and knowledge over the course of the J.D. program. (In above figure – the proposed option diagram – arrows from "Self-Directed Learning" to "Optional Skills" and to "Optional Knowledge Content").

The AI Committee also sees two-way links between optional skills and optional knowledge (In above figure, arrows in both directions between "Optional Skills" and "Optional Knowledge Content"). The AI Committee recommends developing upper year courses that provide opportunities to integrate the optional advanced legal skills with optional knowledge content and making this clear in the course description. This allows for maximum Flexibility, Integration and Progression while supporting self-directed learning by the students. To illustrate, a Charter of Rights seminar might include, as a method of assessment, the drafting of an appeal factum, a Jurisprudence course might require a legal research paper, or a Tax course might include an opportunity to complete tax returns for low-income clients.

6. NEXT STEPS

This report is being presented to Faculty Council on March 13, 2014. The Academic Innovation Committee proposes that key stakeholders (students, faculty, alumni, and members of the Manitoba legal profession) be provided with an opportunity to give feedback on the proposed J.D. program option (and supporting recommendations and information contained in the full report) before the proposed J.D. program option, together with stakeholder feedback, is presented to Faculty Council for a decision in Fall 2014.
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3) COMMITTEE MANDATE

It has been over 30 years since the Robson Hall J.D. (formerly LL.B.) curriculum has been substantively reviewed and revised. Given the intervening changes in the legal, societal, practice, and educational landscape, a review of our curriculum is both timely and prudent. Of course, it does not follow that we should make change for change’s sake. To the contrary, the Academic Innovation Committee (the Committee)\(^5\) is strongly of the view that any potential revisions to our J.D. curriculum must flow from a thoughtful assessment of the context in which our J.D. program operates and serves as well as our faculty-specific goals, strategic advantages, challenges, and opportunities.

This report has been developed by the AI Committee to enable Faculty Council to identify and approve an objective for the J.D. program. By identifying a program objective, we can ensure that our curriculum is structured in a way that provides a program conducive to the learning and development of our students. In carrying out its mandate, the AI Committee is committed to a curriculum review process that seeks input from Robson Hall’s critical stakeholders, in particular, current students, faculty, alumni, and the legal profession.

The option for the J.D. Program presented in this report is intended to generate focused discussion and it is recognized that the option ultimately approved by Faculty Council may be different from the ideas presented herein. This report is to be circulated to stakeholders for input and comment prior to the Faculty Council decision.

Following Faculty Council’s approval of its preferred option for the J.D. Program, the successor committee to the AI Committee (for the purposes of this report described as the “Implementation Committee”) will identify the means for implementing the J.D. Program.

The terms of reference for the Academic Innovation Committee are attached as Appendix 1 to this report.

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\(^5\) Mary J. Shariff (co-chair), Debra Parkes (co-chair), Gerald Hoekman, Vivian Hilder, and Sarah Logig. Individuals who served previously on the committee and provided input prior to the development of this report include: Philip H Osborne, Ursul O'Cona and Greg Salka (student member).
4) COMMITTEE PROCESS FOR GENERATING J.D. PROGRAM OPTIONS

The terms of reference for the Committee (attached hereto as Appendix 1) required that the Committee lead the first phase of a three-phase process of curriculum review.

Figure 1: 3-Phase Timeline

As part of the Phase One process, this report concludes by recommending for consideration to Robson Hall stakeholders a novel option for the J.D. Program (Program Option). The Committee has taken an evidence-based approach to inform its recommendations and in turn, the Program Option presented herein. In short, the Committee's Phase One process has involved the following steps:

1. Review mandate.

2. Gather, review and summarize evidence. This evidence includes: Robson Hall's current program; previous Robson Hall curriculum reform reports; law school accreditation requirements; bar admission requirements; Faculty feedback on Robson Hall's current curriculum; academic literature; and pedagogical theory and practices.

3. Analyze evidence and make Observations for each category of evidence.

4. Based on Observations formulate Recommendations for each category of evidence.
5. From the Recommendations, derive / identify the overall objective of the J.D. Program (the Program Objective), Learning Outcomes and Guiding Principles.

The Committee defines Learning Outcomes as the knowledge, skills, and attitudes the students are expected to have by the time they graduate from the J.D. Program.

The Committee defines Guiding Principles as principles that are to inform and direct the overall organization of the program of instruction.

6. Based on the Learning Outcomes, Guiding Principles and Program Objective, identify one or more alternative options for the J.D. Program i.e. the Program Options.

7. Summarize the above in report form and circulate for purposes of stakeholder discussion and input. After further input from those stakeholders, Faculty Council will consider the option or options generated by the Committee and may adopt one of these or, alternatively, propose and adopt a different option.

**Figure 2. Process for Identification of Option(s) for J.D. Program**
PART B. EVIDENCE, OBSERVATIONS AND RECOMMENDATIONS

5) THE CURRENT CURRICULUM

A. OVERVIEW

The Robson Hall website describes the J.D. Program as follows:

Robson Hall, Faculty of Law, offers a three year J.D. program that starts with the fundamental doctrinal courses that allow students to acquire a solid foundation in law. From the foundational courses, students can move into legal specialties of their choice, or choose to pursue a J.D. concentrating on Aboriginal law, business law, or human rights. Clinical legal education has been a part of the program since the early 1970s and students develop lawyering skills under faculty guidance, expanding their perspectives and ethical understanding of the role of practicing lawyers. Scholarship and research is built into the J.D. program so students have an opportunity to develop a critical understanding of law and its development.

The J.D. program currently requires students to complete 97 credit hours over three years. Courses are divided into three principal categories: Doctrinal, Clinical and Perspective. Within these three categories, courses are either mandatory or non-mandatory.

First Year: In first year, all courses available to the students are mandatory and total 33 credit hours. The majority of mandatory courses in first year are Doctrinal courses (Figure 3).

Figure 3: Courses Offered in First Year

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25 For definitions of Doctrinal, Clinical and Perspective, see discussion in Section 6 below.
26 Note: Judge Shadowing currently constitutes a distinctive element of the Legal Systems course.
Upper Years

In the upper years, students must complete 32 to 34 credit hours each year.

In second year, students are required to take 6 mandatory Doctrinal and Clinical courses for a total of 18 credit hours (See Figure 4), while in third year, students must take the mandatory Legal Profession and Professional Responsibility course worth 3 credit hours (See Figure 6 below).

Figure 4: Courses Offered Only in Second Year

In second year and third year, students are required to take one Perspective course in each of those years (5-6 credit hours). Students must also take 3 mandatory Doctrinal courses in either second or third year (9 credit hours) – Family Law, Tax and Trusts. (See Figure 5).

Accordingly, students acquire a total of 35-36 credit hours through mandatory courses during the second and third years of the program (Figures 4, 5 and 6). For the remaining 29-30 credit hours, students may choose from a variety of courses within any of the Doctrinal, Clinical and Perspective categories (see Figures 5 and 6 below). Students may complete more than the required 97 credit hours during the three years of the J.D. program.
Figure 5: Courses Offered in Second or Third Year

Courses Offered in Second or Third Year

Law 3888 Advocacy for Indigenous People
Law 3906 Clinical Family Law
Law 3927 Diversity and Law
Law 3949 Intellectual Property
Law 3956 Human Rights
Law 3966 Philosophy
Law 3973 National Resources
Law 3984 Law and Popular Culture
Law 3996 Women Rights Movement
Law 3998 B.Commerce
Law 3999 Aboriginal Law, Crime & Justice
Law 3999 International Law
Law 3999 Corporation Law
Law 3999 Crime, Law and Society
Law 3999 Canadian Legal History
Law 3999 Law and Medicine
Law 3999 Regulation Process
Law 3999 Aboriginal People and the Law
Law 3999 Children and the Law
Law 3999 Gender and the Law
Law 3999 International Trade
Law 3999 International Business
Law 3999 Ethics
Law 3999 Charter of Rights
Law 3999 Dispute Resolution
Law 3999 Business Law
Law 3999 Corporate Taxation
Law 3999 Agency
Law 3999 Family Law
Law 3999 Advanced Family Law
Law 3999 Family & Business Law
Law 3999 Trademarks
Law 3999 Regimes of Justice
Law 3999 Trusts & Estates
Law 3999 Labour Management
Law 3999 Environmental Law
Law 3999 Employment Law
Law 3999 Insurance Law
Law 3999 Commercial Law
Law 3999 Copyright Law
Law 3999 Corporate Law I
Law 3999 Tax
Law 3999 Problems of Contract & Tort
Law 3999 Torts

- Clinical Mandatory
- Clinical Non-Mandatory
- Doctrinal Mandatory
- Doctrinal Non-Mandatory
- Perspective Mandatory
- Perspective Non-Mandatory

Enrollment
0 20 40 60 80 100 120
Figures 3 through 6 above indicate student enrolment in the variety of courses offered during the academic year 2011-2012.

Faculty members (professors, instructors or other academic) deliver approximately 70% of the total instruction hours. The remaining 30% of total instruction hours is delivered by approximately 40 members of the legal profession serving as Sessional Instructors. An additional 60 lawyers "provide assistance, mentorship and one-to-one feedback in our clinical programs and courses". \(^7\)

Note: New courses are reassessed after three years by the Academic Affairs Committee and by the Dean based on criteria which include enrolment.

B. OBSERVATIONS

Observation 5.1. The current three year J.D. program requires students complete 97 credit hours. Students acquire a total of 38-39 credit hours through mandatory courses during the second and third years and students may choose from a variety of courses within any of the Doctrinal, Clinical and Perspective categories for the remaining 26-27 credit hours.

Observation 5.2. Enrolment in the optional/non-mandatory courses ranges from as low as 4 students in certain perspective courses to as high as 50 in certain doctrinal non-mandatory.

\(^7\) Dean L. Turnbull, "Canadian Law School Report Form," submitted to the Federation of Law Societies of Canada (April 2013), discussed in infra Section II.C.
Observation 5.3. New courses are reassessed after three years by the Academic Affairs Committee and by the Dean based on criteria which include enrolment.

C. RECOMMENDATIONS

Recommendation 5.1. The current and future course offerings should be reviewed in order to determine whether courses individually and collectively achieve the Program Objective.

Recommendation 5.2. In determining or contemplating changes to course offerings, individual class sizes, or the number of total credit hours required for the J.D. program, the Faculty’s primary consideration should be the impact of such changes on and their alignment with chosen Learning Outcomes, Guiding Principles and the Program Objective.

Recommendation 5.3. The decision to offer any particular optional non-mandatory course in a given year, which may be influenced by considerations that include resources, enrolment, faculty availability and research interests, should nevertheless be made in a transparent and principled manner in alignment with the Learning Outcomes, Guiding Principles, and the Program Objective.
6) PAST CURRICULUM REFORM INITIATIVES AT ROBSON HALL

A. INTRODUCTION

Since its inception in 1914, Robson Hall has been no stranger to curriculum development and reform. The first major change to the law school's curriculum occurred in 1964, when the Manitoba Law School transitioned from a four-year program that combined academic and practical training and led to a Bachelor of Laws degree and Call to the Bar, to a three-year, compulsory academic program. In 1970, the entire third year of the program became elective and in 1974, the faculty began to offer clinic courses for credit. The law school curriculum in the late 1970s included a compulsory first-year program comprising a core of doctrinal courses (Contracts, Torts, Criminal Law and Procedure, Personal Property, Real Property, Introduction to Civil Procedure and Agency) supplemented by Legal System (a general study of law, legal institutions, judicial, legislative and administrative process and legal history), Legal Research and Writing, and Practice Skills Workshops (focusing on a simulated solicitors' transaction and an oral advocacy exercise). The second year comprised a core of compulsory doctrinal courses (Constitutional Law, Business Organization Law, Trusts, Family Law and Evidence) supplemented by electives chosen from a limited list of 11 courses. The final year of the program included a compulsory course in the Legal Profession and Professional Responsibility ("LPPR") supplemented by electives chosen from a much broader selection of courses.

In 1983, a Curriculum Committee chaired by Professor Philip H. Osborne designed the basis of a new curriculum which still forms the foundation of Robson Hall's current curriculum. The 1983 curriculum reform process, recommendations and approval process were reported in a 1990 Manitoba Law Journal article by Philip H. Osborne and Alvin Eshel. The new curriculum rectified an imbalance in favour of private law relative to public law courses in the first and second years of the program and reduced the number of subject offerings in first year. Its most significant contribution, however, was to articulate and integrate into curriculum design, the principles of balance and progression, principles considered fundamental to a good legal education.

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272 Ibid. at 170-71.
B. CURRICULUM DESIGN PRINCIPLES FROM THE 1983 CURRICULUM COMMITTEE

1. Balance
The 1983 curriculum aimed to enable students to achieve a balance among three kinds of courses:

a. Perspective courses, designed to “develop a more humane and broader understanding of legal institutions and legal phenomena generally” through the prism of knowledge drawn from other disciplines, including legal theory, legal history, law and economics, comparative law, international law, critical legal studies, and feminist and Marxist perspectives on law.\(^{32}\)

b. Clinical courses, designed to:

   (a) assist students to “develop a theory of lawyering and a methodology with which to evaluate their professional performance throughout their careers”;

   (b) “assist students to develop a sense of professional competence and an ability to deal with problems of professional responsibility in the lawyer-client relationship”; and

   (c) “provide critical reflection on, and development of, practical skills such as interviewing, identifying and applying law to facts, developing a case strategy, counseling, drafting legal documents, writing briefs, negotiating and preparing and conducting trials.”\(^{33}\)

b. Doctrinal courses, focused primarily on teaching students “a knowledge base of rules, principles and concepts of law related to a particular subject matter.”\(^{34}\)

The curriculum sought to achieve the desired balance by requiring students to take courses from each category as follows:

a. Perspectives courses:

   - Legal System (first year): a course envisioned as the foundational perspective course, covering aspects of legal history, legal reasoning, legal thought, legal education, the legal process, legal practice and law reform from a variety of different perspectives.\(^{35}\)
   - At least one perspective course from a list of designated perspective courses in each of second and third year.\(^{36}\) In perspective courses, 75% of the final grade must be calculated on the basis of a written paper.\(^{37}\)

\(^{32}\) Ibid. at 610.
\(^{33}\) Ibid. at 611.
\(^{34}\) Ibid. at 610.
\(^{35}\) Ibid. at 615.
\(^{36}\) These perspective courses were: Issues in Law and Bio-Ethics; Civil Liberties; Research Paper; Environmental Law, Limits of Law, Issues in Crime and Punishment; Native Peoples and the Law, International Law,
b. Clinical courses:

- Legal Methods (first year): a course envisioned as the foundational clinical course "designed to teach through seminars, exercises and problems, legal research skills, legal bibliography, legal writing, identifying and applying law to case facts, factual investigation, civil procedure, drafting and oral advocacy."
- Introduction to Advocacy, Interviewing, Counseling and Negotiation (second year): a course designed to build upon the Legal Methods course.
- Legal Profession and Professional Responsibility (third year): a course envisioned as "an integral component in a balanced legal education and... an essential aspect of good clinical teaching."

c. Doctrinal courses: A mandatory doctrinal core of courses was selected for inclusion into the curriculum, based on the following factors:

(a) The course introduces the students to new legal concepts.
(b) The course is de facto compulsory (i.e., most students take the course or else).
(c) Legal concepts in the course pervade other subject areas of the law.
(d) The course is important in the practice of law.
(e) The course does not lend itself to self-instruction.
(f) The course is an essential prerequisite to some third-year courses.

The 1983 Curriculum Committee worked on the premise that the more factors applicable to a course, the stronger the argument in favour of its inclusion in the compulsory core, but recognized that "a degree of arbitrariness was unavoidable" in this exercise.

The doctrinal, perspective, clinical courses eventually chosen for inclusion in the compulsory core were:

- One perspective course in each of second and third year.

...
2. **Progression**

The 1983 Curriculum Committee accepted the need for progression in legal studies. In its view, students did not need additional doctrinal courses of similar complexity, format and modes of assessment and aimed at developing the same skills:

> What is needed is a curriculum which provides increasing complexity and sophistication in each of the three years so that students are provided with continual intellectual challenge and can develop a sense of continuing growth and achievement.

The progression of clinical courses from Legal Methods in first year through Interviewing, Counselling and Negotiation and Advocacy in second year illustrates this approach.

3. **Cohesion and Flexibility**

The 1983 Curriculum Committee was influenced by two additional themes — *cohesion* and *flexibility* — that did not seek to address perceived deficiencies in the existing curriculum but to guide curriculum development in the long term. The Committee hoped that the broad themes of *balance and progression* upon which the new curriculum was based reflected a certain vision of legal education that would provide the law faculty with an “overall coherent and rational policy within which curriculum planning could take place,” avoiding the “ad hoc, uncoordinated and incremental” approach to curriculum reform that had prevailed in previous years. In tension with this desire for cohesion was the theme of flexibility: the need to ensure that the Faculty could evolve its curriculum to “accommodate significant changes in legal education, legal thinking and in the legal system itself.”

4. **Student Choice**

Student choice emerged as a significant theme when the 1983 Curriculum Committee’s proposed curriculum was debated by Robson Hall’s Faculty Council. The 1983 Curriculum Committee had proposed that students be required to take one of Intensive Criminal Law, Intensive Family Law or Intensive Administrative Law in their third year. This additional compulsory clinical component was intended by the committee to complete the progression of clinical courses through the three-year LL.B. program. Osborne and Esau recount that:

> Faculty Council was not persuaded. Only so much compulsion was acceptable. It was felt that in the light of a mandatory second year programme choice should be maximized in third year. Some students do not wish to practice law and it was thought that eight credit hours of clinical combined with three of Legal Profession...
and Professional Responsibility would unreasonably restrict students who wish to pursue a more academic and perspective program.\footnote{\textit{ibid.}, at 618.}

C. OBSERVATIONS

Observation 6.1. Five principles animated the last round of curriculum development at Robson Hall. These principles are:

- **Balance**: the curriculum must allow students to achieve a balance between doctrinal, clinical and perspectives courses, as these conceptual frameworks are defined above.
- **Progression**: the curriculum must provide increasing complexity and sophistication in each of the three years to provide students with continual intellectual challenge.
- **Cohesion**: curriculum development should take place within a coherent and rational policy framework, animated by principles (including balance and progression) rather than ad hocery.
- **Flexibility**: the curriculum development framework should be flexible enough to accommodate changes in legal education, legal thinking and in the legal system itself.
- **Student Choice**: students should enjoy a measure of freedom in designing their program of study to reflect their academic preferences and career aspirations.

Observation 6.2 While the Faculty has on occasion assessed the operation of the new curriculum and made slight modifications over the years,\footnote{D.T. Anderson, “The Faculty of Law, University of Manitoba 1984-1989” (1990) 13 Dalhousie L.J. 405.} the curriculum put in place following the 1983 Curriculum Committee’s report has essentially remained the same. The Committee is thus conducting the first systematic curriculum review at Robson Hall in 30 years.

Observation 6.3 The Committee observes that notwithstanding the adoption of the 1983 curriculum, clinical courses, in particular with respect to the skills of interviewing and counseling, have not been implemented in accordance with the recommendations.

Observation 6.4 The Committee observes that there is currently no mechanism in place to ensure that the second and third year courses designated as perspective courses actually fulfill the objective of developing “a more humane and broader understanding of legal institutions and the legal phenomena generally through the prism of knowledge drawn from other disciplines.” They are primarily functioning as research paper courses.

Observation 6.5. The Committee observes that the categories of doctrinal, perspective and clinical overlap in terms of substantive course content and how the curriculum is delivered.
D. RECOMMENDATIONS

Recommendation 6.1 The Committee is of the view that the rationale supporting the five principles of balance, progression, cohesion, flexibility and student choice remains sound, that these principles remain relevant to curriculum reform and that they should be considered by the Committee in its current review of the Robson Hall curriculum as possible Guiding Principles. The Committee notes that these principles retain significant support among faculty members.44

Recommendation 6.2 The objective of developing “a more humane and broader understanding of legal institutions and legal phenomena generally through the prism of knowledge drawn from other disciplines and various perspectives” should be integrated into the Program Objective.

Recommendation 6.3 The Committee recommends that the design of the J.D. program curriculum should be flexible enough to be able to accommodate significant changes in legal education, legal thinking and in the legal system in a timely manner. The Committee further recommends the ongoing monitoring and regular reporting of any such changes to Faculty Council on an annual basis.

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44 Some faculty members have questioned whether the current curriculum achieves the objectives of balance and progression; see Section 9.10.1e.
7) THE FEDERATION OF LAW SOCIETIES AND THE CANADIAN COMMON LAW DEGREE

A. OVERVIEW OF THE DEVELOPMENT OF THE CANADIAN COMMON LAW DEGREE

Since Robson Hall’s adoption of its current curriculum in 1984, the legal education landscape in Canada has been dominated by two significant milestones: (1) the 2007 report of the Carnegie Foundation for the Advancement of Teaching on Legal Education (widely known as the Carnegie Report discussed in Section 10.A.2. below); and (2) the endorsement by Canadian law societies of the 2009 Final Report of the Federation of Law Societies of Canada’s Task Force on the Canadian Common Law Degree and the 2011 Final Report of the Common Law Degree Implementation Committee.

In September 2008, a Task Force established by the Federation of Law Societies (the Federation or FLS) issued a consultation paper which first introduced the idea of accreditation of law schools.49 Following consultation, in October 2009, the Federation of Law Societies of Canada Task Force on the Canadian Common Law Degree issued its final report (the 2009 Task Force Report).50 The report recommended inter alia that law societies in Canadian common law jurisdictions adopt a uniform national requirement for entry into their bar admissions programs. The 2009 Task Force Report was approved by all Canadian law societies in 2009 and 2010. In 2011, the Federation of Law Societies produced the FLS Common Law Degree Implementation Committee Final Report (the FLS Implementation Report).51 The FLS Implementation Report sets out uniform national requirements for Approved Common Law Degree programs and requires law schools to ensure that students satisfy minimum “competency requirements.” In addition, law schools must offer an academic program and learning resources that comply with a national requirement stipulating, inter alia, minimum credit hours, methods of delivery and admission requirements. Finally, the FLS Implementation Report sets out a compliance mechanism requiring law schools to report to the FLS on how they are fulfilling the minimum national standards.

The impetus for the Federation's foray into “approving” law school academic programs was two-fold: a sharp increase in the number of foreign-trained lawyers seeking entry to the profession through the National Committee on Accreditation (combined with provincial legislation concerning fair access to the profession); and the prospect of new law schools in British Columbia and Ontario.52

The Council of Canadian Law Deans had a number of meetings with the Task Force and prepared submissions and reports, some of which are included as appendices to the Task Force’s Final Report. The law deans focused their attention on the issues of competencies (expressing a preference for a shorter list of competencies than that originally recommended by the Law Society of Upper Canada), compliance (using the least intrusive means), and institutional requirements (relating to entry requirements, duration of the program, method of delivery, research and scholarship, institutional infrastructure, etc.) for any common law school in Canada.

The FLS requirements are summarized below. A full listing of the FLS Recommendations, excerpted from the FLS Implementation Report, may be found at Appendix 2.

B. SUMMARY OF FLS COMPETENCIES

1. Skills
   1.1. problem-solving (specific knowledge and skills listed, e.g., facts, issues, research, analysis, application; resolution alternatives etc.)
   1.2. legal research (specific knowledge and skills listed, e.g., issues, sources, statutory interpretation, case analysis, application etc.)
   1.3. oral and written legal communication (specific knowledge and skills listed, English or French, grammar, spelling, language, argument, analysis, advice etc.)

2. Ethics and Professionalism
   * demonstrated awareness and understanding of ethical requirements of practice of law in Canada (specific knowledge and skills listed including communication with civility etc.)

3. Substantive Legal Knowledge
   It is important to note that the substantive legal knowledge competencies are situated in a broader context that recognizes that Canadian law schools provide “both a liberal legal education and a professional education”, where students “began to ‘think like lawyers,’ examine law critically and address deficiencies in legal systems and principles”[emphasis added].53 Moreover, these competencies must be read in light of the overarching requirement that

52 Ibid., at 18-21.
53 Ibid., at 12.
“the applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and interrelationships between different areas of legal knowledge” [emphasis added].

3.1. Foundations of Law: principles of common law and equity, process of statutory construction and analysis; administration of the law in Canada (courts, tribunals, etc.)

3.2. Public Law of Canada:
- Constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles, and the rights of Aboriginal peoples of Canada
- Canadian criminal law
- Principles of administrative law

3.3. Private Law principles
- Foundational legal principles that apply to private relationships including contracts, torts, and property law
- Legal and fiduciary concepts in commercial relationships

C. SUMMARY OF FLs ACADEMIC PROGRAM AND LEARNING RESOURCE REQUIREMENTS

1. Credits: Three (3) academic years or equivalent in course credits (90 credit hours).

2. Joint Degrees: possible but other discipline must be sufficiently related to law and the intertwined content is specifically designed to enhance and enrich the learning in law.

3. In-person instruction and/or direct interaction: The course of study consists primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students. “The Committee recommends interpreting “primarily” in-person to mean that presumptively, a minimum of two-thirds of instruction over the course of the law degree program must be face-to-face instruction conducted with the instructor and students in the same classroom.”

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54 Ibid
55 Contracts, Torts, Property and legal and fiduciary concepts in commercial relationships are accepted as the specific minimum principles of private law requirements.
56 The Robson Hall curriculum currently requires students to complete 99 credit hours to graduate.
57 For further detail see Fls Implementation Report, supra note 51 at 22.
4. Physical Resources: The law school has adequate physical resources for both faculty and students to permit effective student learning.

5. Technology: The law school has adequate information and communication technology to support its academic program.

6. Library: The law school maintains a law library in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.

D. CRITICISM OF THE FLS CANADIAN COMMON LAW DEGREE

The FLS proposal and its likely impact on the educational mission of Canadian law schools caused significant concern among members of the legal academy across Canada.

The Canadian Association of Law Teachers and Canadian Law and Society Association struck a Joint Committee to respond to the Consultation Paper of the Task Force on the Canadian Common Law Degree of the Federation of Law Societies of Canada (the Joint Committee). In a report issued on 8 December 2008, the Joint Committee criticized many aspects of the FLS Consultation Paper, including the competencies approach to legal education, deficiencies in the FLS consultation process and the lack of empirical basis for the reforms proposed by the FLS.

The Joint Committee’s set out eight basic points and prefaced these points with a criticism of the FLS’s project of reconfiguring law school curricula to emphasize professional competencies. In the Joint Committee’s view, such an emphasis:

- ignored that legal training served as a broader preparation for citizenship. In other words, some students had no plans to practice upon graduation.
- ignored the role of law school to equip lawyers to lead the bar, bench and academy 50 years in the future by gauging law school curricula solely to what is being practiced as law today.
- would lead to more resources being put by law faculties towards teaching “core” subjects and away from cutting-edge areas, reducing richness, diversity and creativity in scholarship.  

The eight basic points articulated by the Joint Committee are as follows:

1. The FLS should not focus exclusively on the content of a “Canadian Common Law Degree” in its investigation into the training needs for legal practice. Law societies are responsible for

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60 Ibid., at 152-3
the professional licensing process and bar admission courses; articling and continuing education must serve some purpose.\(^5\)

2. The FLS has not adequately distinguished between "entrance into bar admission programs" (for which law faculties prepare their students) and "entry into the practice of law" (for which law societies are responsible through bar admission programs, bar exams, articling, mentoring and post-admission professional education programs). The role of law faculties is not to ensure practice readiness:

[Their higher-education objectives] include, in addition to analytical rigor and substantial knowledge, the promotion of deep understanding of knowledge claims, the capacity to critique those knowledge claims, the inculcation in students of the desire and ability continuously to educate themselves, and self-reflection. These goals are realized, for example, through the encouragement of critical perspectives, interdisciplinarity, inclusion of philosophical and sociological dimensions, the exposure of students to different research methodologies, and the fostering of open, self-directed learning.\(^5\)

3. The process followed by the FLS did not include sufficient consultation with all stakeholders. The Joint Committee supported the creation of the a National Task Force involving law societies, law faculties, law teachers, students, government and the public to investigate all aspects of reform of legal education.\(^6\)

4. The FLS did not produce compelling evidence in support of its assertion that there was a competency deficit among law school graduates and that the list of competencies should be at the core of an approved law degree.\(^6\)

5. "Competency" involves the ability to make choices to handle situations and tasks in specific contexts of professional practice "by using and integrating knowledge, skills, judgment, attitudes and personal values, in accordance with professional role and responsibilities."\(^6\) In the Joint Committee's view, only bar admission courses and the mentoring and training that should come with the articling process can provide the necessary "context of professional practice." On the other hand, law schools, whose role is to provide a liberal and professional legal education enabling graduates to undertake a variety of careers, should not be expected to fulfill this function, given limited resources and academic freedom.

6. The Joint Committee questioned the FLS's justifications for its Canadian Common Law Degree proposal. First, recent proposals for the creation of new law schools, a matter within the purview of universities and Ministries of education, did not require a reassessment by law

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\(^5\) Ibid., at 154-5.
\(^6\) Ibid., at 155.
\(^6\) Ibid., at 156-8.
\(^6\) Ibid., at 158-9.
societies of law school curricula. Second, the increase in foreign-trained lawyers seeking admission to the bar was not a problem that could be resolved through an approved law school competency criterion. The FLS had insufficient evidence upon which to reject a "matriculation examination" approach to test for the knowledge, skills and abilities required by lawyers to practice law. Finally, there was no evidence establishing that it was necessary to adopt FLS competencies in order to operationalize the integrated model of legal education described in the Carnegie report, assuming that this model could or should be translated into the Canadian law school context.65

7. The FLS list of required competencies was over-inclusive, as it included subjects that were not demonstrated to be required for law graduates to succeed on bar admission or professional licensing processes. The list was under-inclusive as it did not include courses on international or comparative law in a time where the influence of globalization and internationalization on domestic law has been well documented. The list of competencies approach would favor homogeneity, decreased diversity and innovation and reduce student choice in the legal education offered by Canadian law faculties:

The result of a broad mandatory curriculum is a lack of opportunity for students to reflect critically on their own studies and career paths, hindering the development of their interest in and capacity for lifelong learning.

8. It is questionable whether law societies have the expertise, resources or capacity to effectively monitor law school compliance with the FLS proposed competencies.67

E. FEDERATION OF LAW SOCIETIES NATIONAL ENTRY-LEVEL COMPETENCY PROFILE

Distinct from addressing requirements for Canadian common law degree programs and entrance into bar admission courses, the Federation of Law Societies has more recently undertaken the task of developing national standards for admission to the legal profession. In September 2012, the Federation approved a National Entry-level Competency Profile setting out the competencies required upon entry to the profession and the standard for ensuring that applicants meet the requirement to be of good character.68

A Federation task force of practitioners developed the National Entry-level Competency Profile in consultation with an advisory committee of law society experts under the guidance of an international consultant with expertise in professional credentialing. The Federation tested the

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65 Ibid., at 163-164.
66 Ibid., at 106.
67 Ibid., at 166-7.
68 Federation of Law Societies, National Admissions Standards Project, National Entry-Level Competency Profile, September 2012, online: http://www.fedcan.org/documents/NASComptenciesSep2012.pdf [FLS Entry-level Competency Profile].
validity of the Profile in early 2012 through a large-scale national survey of lawyers and notaries who had five years or less of experience in a broad range of practice settings. Based on the survey results, the Federation eliminated competencies that were used less often than once a month and/or had no negative consequences if not performed properly.69

The National Entry-level Competency Profile includes many substantive legal knowledge competencies, including some competencies that were not included in the national requirements for Canadian common law degree programs: the Law of Evidence, Family Law and the Law of Wills and Estates. In this respect, the Federation of Law Societies has observed that:

In considering the implementation of the profile, one issue that will have to be addressed is where in the process leading to admission – law school, practical training, bar admission programs – each of the competencies would be acquired. In that process particular regard will have to be paid to the knowledge competencies not now included in the common law degree requirements. This may involve discussion with all of the relevant stakeholders, including representatives of the law schools.69

The National Entry-level Competency Profile also includes skills competencies. Some of these are included in the national requirements for Canadian common law degree programs, several are not. The skills unique to the National Entry-level Competency Profile are:

- Effecting information from clients and others
- Explaining the law in language appropriate to audience
- Obtaining instructions
- Procedures applicable to the following types of transactions:
  - Commercial
  - Real Estate
  - Wills and estates
- Advocating in a manner appropriate to the legal and factual context
- Negotiating in a manner appropriate to the legal and factual context
- Identifying client’s goals and objectives
- Identifying due diligence required
- Assessing possible courses of action and range of likely outcomes
- Conducting factual research
- Conducting research on procedural issues
- Skills in the categories of “Client Relationship Management” and “Practice Management”70

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The Federation of Law Societies' Steering Committee responsible for the development of national admission standards has been charged with the task of "making a recommendation to Council on implementation of the national admission standards that includes a method for assessing compliance with the standards and addresses issues related to teaching and training of candidates." The Steering Committee was expected to begin delivering program reports on these efforts to the Federation Council beginning in March 2013.

It must be noted that because students must satisfy the FLS J.D. Competencies set out in the Canadian Common Law Degree in order to apply for entry to the bar admission program of their respective law society, law school programs must address these FLS J.D. Competencies. In contrast, students must satisfy the competencies described in the National Entry-level Competency Profile as a condition of admission to the bar (i.e. entry to the profession). Accordingly, the FLS has not to date specifically identified knowledge of the law of evidence, family law and the law of wills and estates, or any of the skills listed above, as competencies required by students graduating from law schools. Rather, students must acquire these competencies before admission to the bar, leaving open the question as to when and where this acquisition should occur.

F. OBSERVATIONS

Observation 7.1 The FLS has specified that law students seeking entry to law society bar admission programs must satisfy a list of minimum competencies.

Observation 7.2 The FLS has also specified that law schools must meet minimum academic program and learning resource requirements for their graduates to be eligible to enter a law society bar admission program.

Observation 7.3 Canadian law schools are endeavouring to comply with these requirements and, to prove they are doing so, are submitting annual reports to the FLS as stipulated in the FLS Implementation Report.

Observation 7.4 Except for the competency respecting "ethics and professionalism", which must be satisfied by a standalone course, law schools "may determine how [their] students satisfy the competency requirements" allowing them "the flexibility to address these competencies in the manner that best meets their academic objectives, while at the same time meeting the regulators' requirements that will allow their graduates to enter law society admission programs." The Common Law Degree Implementation Committee provides suggestions as to how to address certain competencies (principles of common law and equity, the rights of Aboriginal peoples of Canada, the principles of Canadian administrative law, legal and fiduciary concepts in commercial relationships) but notes that it is open to law schools to do so "in other ways".

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72 Ibid., at 7, para. 33.
73 FLS Implementation Report, supra note 53 at 8.
74 FLS Final Report, supra note 54 at 31.
Observation 7.5 The "substantive legal knowledge competencies" are situated in a broader context that recognizes that Canadian law schools provide "both a liberal legal education and a professional education", where students "began to think like lawyers," examine law critically and address deficiencies in legal systems and principles.\(^5\)

Observation 7.6 The "substantive legal knowledge competencies" must be read in light of the overarching requirement that students "must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and interrelationships between different areas of legal knowledge."\(^6\)

Observation 7.7 The Al Committee observes that the FLS required competencies approach is not necessarily antithetical to the principles that have animated curriculum development at Robson Hall in the past.\(^7\) For example, the importance of perspective courses in a balanced legal education recognized in our current curriculum is consistent with the FLS position that "substantive legal knowledge competencies" be addressed in a context that recognizes that one of the roles of Canadian law schools is to encourage students to "examine law critically and address deficiencies in legal systems and principles." Similarly, the FLS requirement that students "undertake a sufficiently comprehensive program of study to understand the complexity of the law and interrelationships between different areas of legal knowledge" is consistent with the principle of progression in legal studies previously endorsed at Robson Hall - the need for a curriculum that provides students with increasing complexity and sophistication throughout their program.

Observation 7.8 The Federation of Law Societies has recently created a National Entry-level Competency Profile setting out a list of competencies that students must acquire before they can be admitted to the bar and enter the legal profession. This list includes substantive legal knowledge competencies (the Law of Evidence, Family Law and the Law of Wills and Estates) as well as a series of skills that were not included as part of the national requirements for Canadian common law degree programs. Accordingly, the FLS (to date) has not specifically identified knowledge of the law of evidence, family law and the law of wills and estates, or indeed skills such as advocacy and negotiation, as FLS JD. Competencies required by students graduating from law schools. Rather, students must acquire these competencies before admission to the bar, leaving open the question as to precisely when and where this acquisition should occur.

Observation 7.9 The National Entry-level Competency Profile has been validated as a descriptor of knowledge, skills and tasks that entry level lawyers require to practice in Canada.

\(^5\) FLS Implementation Report, supra note 53 at 12.
\(^6\) ibid
\(^7\) These principles are described in Section 5 of this report, supra
Observation 7.10 Criticism of the FLS’s Canadian Common Law Degree, as it is relevant to curriculum (as opposed to process issues or the empirical evidence supporting the entire project), has focused on the following concerns:

- The list of competencies are under-inclusive and over-inclusive;
- The list approach can reduce diversity and innovation and (through a broad mandatory curriculum) reduce student choice in the legal education offered by Canadian law faculties;
- The list approach has the potential to put more resources towards teaching “core” subjects rather than cutting-edge areas and runs the risk of reducing richness, diversity and creativity in scholarship.

G. RECOMMENDATIONS

Recommendation 7.1 To maintain its standing as an accredited law school, Robson Hall must comply with the FLS list of minimum competencies for the approved Common Law Degree (FLS J.D. Competencies). Therefore, the Committee recommends that the Faculty approach these competencies as a “baseline” for the Learning Outcomes of our J.D. program. The Committee observes that Robson Hall is therefore free, in principle, to choose to include in its curriculum planning, Learning Outcomes and/or competencies beyond those set out in the FLS J.D. Competencies list if it decides that the FLS list is under-inclusive.

Recommendation 7.2 The Committee recognizes that the FLS J.D. Competencies could be implemented rigidly (for example, by requiring a different mandatory core course to cover each required competency). However, the FLS has reiterated that, except for the ethics and professionalism competency, law schools have the flexibility to address the competencies in the manner that best meets their academic objectives. Accordingly, the Committee recommends that curriculum reform proceed in an innovative manner that fully exploits this flexibility. FLS competencies should be addressed, wherever possible, in a manner consistent with the unique curricular aspirations and principles that our Faculty chooses for itself. In practical terms, the Committee recommends the adoption of a flexible approach to achieving the FLS competencies either through standalone courses, by integrating the required knowledge and skills across several courses or by other means.

Recommendation 7.3 The Committee recommends that, where possible, the Faculty adopt an interpretation of the FLS J.D. Competencies that aligns with identified Program Objective, Learning Outcomes and Guiding Principles.

Recommendation 7.4 To maintain its standing as an accredited law school, Robson Hall must also comply with the FLS minimum academic program and learning resources requirements. The Committee recommends that the Faculty of Law monitor, carefully study and respond in a
coordinated manner to any current or new Faculty and University policies or strategies that have the potential to impact the Faculty's ability to comply with these academic program and learning resources requirements.

Areas of particular note include classroom space and online course delivery. Additional areas for consideration include law library resources, number of full-time faculty and technology support. The Committee particularly notes that the University of Manitoba's new classroom usage policy under the ROSE program (designed to increase efficiencies in space usage across the Campus) is one example of a policy whose impact should be closely monitored.

**Recommendation 7.5** The Committee notes that the FLS has decided that knowledge in the areas of the Law of Evidence, Family Law and the Law of Wills and Estates will be required competencies for admission to the Bar (i.e. entry to the legal profession). The mechanism by which competency in these substantive areas of law will be achieved and measured has not yet been decided. The Committee is of the view that while the FLS J.D. Competencies do not require Robson Hall to ensure that students complete courses in these respective areas, all Robson Hall students should still be given the opportunity to take courses that address these knowledge competencies during their J.D. program. To promote meaningful choice within the J.D. program, the Committee further recommends that students be informed of the J.D. Competencies as well as the FLS National Entry-level Competency Profile in Robson Hall promotional material and literature prior to acceptance in the J.D. program as well as throughout the program.

**Recommendation 7.6** The FLS National Entry-level Competency Profile provides validated evidence of knowledge, skills and tasks required for the first five years of practice. Accordingly, in circumstances where preparation for practice is a factor in a curricular decision (e.g. providing education in practice-oriented skills not required by the FLS J.D. Competencies), Robson Hall should consider consult the information provided in the FLS National Entry-level Competency Profile, along with any other validated sources of such information that may become available.

**Recommendation 7.7** The FLS has distinguished between requirements of entry into bar admission programs (articulated in the Canadian Common Law degree) and requirements for entry into the profession (articulated in the National Entry-level Competency profile). The committee agrees with the CALT-CLSA Joint Committee that the law school curriculum must achieve higher education objectives of, *inter alia*, analytical rigour and substantial knowledge, promotion of deeper understanding of knowledge claims, and the capacity to critique these knowledge claims. However, the AI Committee believes that law schools can pursue these higher education objectives while also contributing to practice readiness through their curricula, and that its task in formulating program options is to achieve an appropriate balance between these goals.

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39 FLS NAS Phase 1 Report, supra note 30, para. 17.
8) CURRENT ROBSON HALL CURRICULUM AND FLS J.D. COMPETENCIES

A. INTRODUCTION

Robson Hall’s existing mandatory curriculum appears to satisfy the FLS J.D. Competencies, which, in the Committee’s view should form the baseline for our J.D. program. The Committee was therefore principally interested in collecting evidence that would help to identify with more precision the extent to which the curriculum: 1) aligned with or satisfied the FLS J.D. Competencies; and 2) provided competencies (whether substantive, skills-based or professional ethics focused and so forth) different from the FLS J.D. Competencies.

Accordingly, in early 2012, the Committee developed an information gathering survey (online and in hardcopy) based on the structure of the FLS J.D. Competencies. The survey of professors and sessional instructors was not a scientific survey, but rather a questionnaire developed to inquire about where Robson Hall stood, from the instructor perspective, with respect to the FLS J.D. Competencies. The instructor who taught the course, for example, calculated the percentage of the course that addressed a particular component of the FLS J.D. Competencies. Because there was no independent assessment of the content, compliance, or standard definitions for the terms used by the FLS in describing the competencies, the results of the survey must be tempered by the knowledge that the data are only the individual instructor’s opinions and thus, are estimates. In addition to the survey, the Committee collected and reviewed Course syllabi to complete any identified information gaps.

All but one of the faculty members and over 60% of sessional instructors completed the survey. A copy of the survey can be found at Appendix 3 of this report. Results from the survey related to FLS J.D. Competencies are summarized below and have also been rendered into visual form for ease of rapid comparison and to help illuminate the structure and points of delivery of the current Robson Hall curriculum. It should be mentioned that the survey also elicited information that might be considered more relevant to Phase Two of this task - the implementation phase.

Additional compliance analysis was conducted by Dean Lorna Turnbull as part of her obligation to report to the FLS pursuant to the FLS Common Law Degree Implementation Committee Final Report. The Committee reviewed Dean Turnbull’s 2013 report to the FLS (Dean’s 2013 Report) which is summarized below.

The data informing this section of the Report, though collected two years ago, remains current as no significant changes have since been brought to the Robson Hall curriculum.

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78 Surveys conducted and curriculum assessed against academic year 2011-2012 course offerings.
79 Thanks are owed to Adam Carlyle-CrEge for translating the survey into html and making it accessible online.
80 The committee wishes to thank J.D. student Richard Uyenshi for assisting with the centering of raw data into a variety of visualization forms.
B. RESULTS OF ONLINE SURVEY OF COURSE OFFERINGS, 2011-2012 ACADEMIC YEAR

The Committee compared the Robson Hall curriculum as described through instructor self-reporting against the FLS J.D. Competencies categories to identify how the 2011-2012 academic year curriculum aligned with the FLS J.D. Competencies. The Committee’s analysis primarily focuses on the mandatory course offerings given that potential gaps (and overlaps) in content coverage can be triggered by student choice of non-mandatory courses.

The results are summarized as follows:

1. First Year Courses

Substantive Legal Knowledge: The majority of the competencies specifically identified by the FLS under its “Substantive Legal Knowledge” grouping are addressed in our first year mandatory courses.

<table>
<thead>
<tr>
<th>FLS J.D. Competencies: Substantive Legal Knowledge</th>
<th>First Year Courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Law and Principles of Equity</td>
<td>Legal Systems</td>
</tr>
<tr>
<td>Statutory construction, interpretation and analysis</td>
<td>Legal Methods</td>
</tr>
<tr>
<td>Administration of law in Canada</td>
<td>Legal Systems</td>
</tr>
<tr>
<td>Organization of courts</td>
<td>Legal Methods</td>
</tr>
<tr>
<td>Constitutional (including federalism, division of powers, Charter, human rights principles, rights of Aboriginal peoples)</td>
<td>Constitutional</td>
</tr>
<tr>
<td>Criminal</td>
<td>Criminal</td>
</tr>
<tr>
<td>Contracts</td>
<td>Contracts</td>
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<tr>
<td>Torts</td>
<td>Torts</td>
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<tr>
<td>Property</td>
<td>Property</td>
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</tbody>
</table>

Skills-Based Competencies: Many of the skills identified by the FLS in its “Skills-Based Competencies” grouping are also introduced in the first year. Problem solving, legal research and oral and written legal communication are primarily addressed in Legal Methods. However, at least two additional first year courses, Constitutional Law and the Judge Shadowing component of Legal Systems assess by way of a written research paper in addition to exams and address the written legal communication competency.
Ethics and Professionalism: Legal Methods is the principal course to deliver ethics and professionalism content in first year. Instructors for two other first year courses, Criminal Law and Torts, have stated that they include ethics and professionalism.

Complexity, Interrelationships and Critical Evaluation of Law

To reiterate, the FLS has situated the substantive legal knowledge competencies in a broader context that recognises that Canadian law schools provide "both a liberal legal education and a professional education", where students "began to 'think like lawyers,' examine law critically and address deficiencies in legal systems and principles". Moreover, these competencies must be read in light of the overarching requirement that "the applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and interrelationships between different areas of legal knowledge".

The primary mechanism through which the current Robson Hall curriculum satisfies these complexity and critical thinking requirements is the Perspective Course, a course intended to challenge students to "develop a more humane and broader understanding of legal institutions and legal phenomena generally". Legal Systems, the one mandatory Perspectives course in first year addresses these requirements.

2. Upper Year Mandatory Courses

Substantive Legal Knowledge: Additional required competencies specifically identified by the FLS under its "Substantive Legal Knowledge" grouping, are covered in Robson Hall's mandatory second and third year courses.

<table>
<thead>
<tr>
<th>FLS J.D. Competencies: Substantive Legal Knowledge</th>
<th>Mandatory Upper Year Courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Law</td>
<td>Administrative Law</td>
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<tr>
<td>Corporations I</td>
<td>Taxation Law and Policy</td>
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<tr>
<td>Trusts</td>
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<tr>
<td>Taxation Law and Policy</td>
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<tr>
<td>Family Law</td>
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<tr>
<td>Civil Procedure</td>
<td></td>
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<tr>
<td>Introduction to Advocacy</td>
<td></td>
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</tbody>
</table>

82 Ibid., at 12.
83 Ibid
84 Osborne & Emery, supra note 30 at 610.
Skills-Based Competencies: Aspects of the FLS “Skills-Based Competencies” grouping, for example, problem solving and oral and written legal communication, continue to be addressed in Robson Hall’s mandatory second year clinical courses, Introduction to Advocacy and Negotiation.

Ethics and Professionalism: Ethics and Professionalism FLS grouping is captured in the mandatory third year course. While 83% of Ethics and Professionalism content is delivered in years 2-3, it is important to note that some additional courses have identified ethical and professional content in year 1 (Figure 7 below).

Figure 7 Delivery of total Legal Ethics and Professionalism content across Years 1-3

Complexity, Interrelationships and critical evaluation of law
The primary mechanism through which the current curriculum satisfies these requirements is the Perspective Course. Upper year students are required to select one Perspective Course for each of years 2 and 3 from a varied list of course offerings.

The many perspective courses offered in Second or Third Year also address various elements of the “Substantive Legal Knowledge” grouping and thereby have the potential to further expose students to the complexity of the law and interrelationships between different areas of legal knowledge. For example, the FLS J.D. competencies of Human Rights Principles, Rights of Aboriginal Peoples, and Commercial Relationships, are addressed in a number of courses, including numerous Perspective courses, as reflected in the figures below.
Figure 8: Delivery of total Human Rights content across Years 1-3

Figure 9: Delivery of total Rights of Aboriginal Peoples content across Years 1-3
3. Principal Differences between Robson Hall curriculum and the FLS J.D. Competency requirements

The current Robson Hall curriculum:

- aims to achieve progression in each of the three areas of Doctrinal, Clinical and Perspective courses by increasing analytical and substantive complexity in the upper years
- requires more substantive knowledge than that identified as part of the FLS J.D. Competencies due to the additional mandatory course offerings in the upper years of Family Law, Trusts, Tax, and Law of Evidence
- has a broader diversity of substantive knowledge areas than those identified as part of the FLS J.D. Competencies available at Robson Hall (subject to student choice)
- Robson Hall currently requires completion of a minimum of 97 credit hours for the J.D. degree (FLS requires 90)
C. SUMMARY OF POINTS FROM DEAN'S 2013 REPORT TO THE FEDERATION

In April 2013, Dean Lorna Turnbull submitted the annual reporting form, "Canadian Law School Report Form" which is required by the FLS as part of the implementation of the FLS J.D. competencies initiative. Below is a summary of some of the key points from Dean Turnbull's 2013 report.

Part 1: Information Common to all the Law School's Programs

Introductory notes on Robson Hall J.D. Program:

- Dedicated to educating law students in a progressive learning environment
- In addition to providing a strong "generalist" education, the faculty is developing three areas of strategic priority relevant to the legal and social challenges facing Manitoba, Canada and the world in the twenty-first century: Aboriginal Law, Business Law and Human Rights Law
- The school's "integral" connection to the profession in the province: 1) enriches learning opportunities; 2) enriches scholarly work of academics; 3) creates an environment that fosters critical engagement with pressing issues of our time.

Learning Resources: The law school is adequately resourced to meet objectives and has appropriate numbers of qualified academic staff to meet needs of the academic program

- Faculty and Staff:
  - 18 full-time tenured or tenure track professors; one half-time tenured professor; and five other full-time staff with varying ranks (senior instructor, instructor, other academic)
  - Number of full-time academic staff: 23 FTEs
  - 14 full-time support staff
  - 5 retired colleagues hold title of Senior Scholar; often present in the building, teaching, writing and serving as resources to students and colleagues alike
  - 40 members of the legal profession serving as Sessional Instructors in 34 courses.
  - Sessional Instructors deliver approximately 30% of our total instruction hours
  - Additional 60 lawyers who provide assistance, mentorship and one-to-one feedback in our clinical programs and courses.
  - More than half of full-time tenure track faculty hold a doctorate.

- Enrolment
  - The average enrolment of full-time students in all years of the J.D./LL.B. program averaged 308 students (2009-2011)
  - Roughly 10 students each year are enrolled part time for a total of 312 students in the program

- Financial Resources
  - Faculty has close to $750,000 in merit and needs based aid to support students
Faculty budget in 2012-13 was approximately $4.5 million with a further $1.7 million for the Law Library (the latter budget not administered within the faculty).

- Physical Resources: "The classrooms currently meet space requirements but without much margin for future expansion or changes in methods of delivering instruction. A new University wide space scheduling initiative threatens to move instruction of law classes out of the building and to introduce non-law courses into the law school spaces during core daytime teaching hours."

- Technology: "the law school has adequate information and communication technology to support its academic program"
  - In addition to the University’s centralized Information Services and Technology Department which provides a wide range of IT services, the faculty has two full-time IT staff to handle desktop hardware and software installation, support and troubleshooting.

- Library: law school provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.
  - Staffed by 3 librarians (Head Law Librarian, Reference Librarian and Collections Librarian), 1 library supervisor, 3.5 library assistants and a number of casual student employees.
  - Physical facilities are first rate, library collection is extensive.
  - Students have access to wide and varied suites of electronic research products.

Part 2: Information specific to each program

1.1 Problem Solving: addressed in mandatory, standalone Legal Methods 5-credit, first year course and in all first year courses. Upper year courses also include problem solving approaches.

1.2 Legal Research: addressed in mandatory, standalone Legal Methods 5-credit, first year course and in the mandatory perspective course which requires completion of a 7500 word minimum research paper, worth 25% of the grade. Other upper year courses have various research requirements. The upper year elective Advance Legal Research course is also available to students. Finally, graduating students can take the optional, one-day "Legal Research Boot-camp" workshop at end of third year.

1.3 Oral and Written legal Communications: addressed in mandatory, standalone Legal Methods 5-credit, first year course as well as other mandatory courses including Negotiation and Advocacy. Some upper year courses also include development of these skills as part of teaching substantive law.

2. Ethics and Professionalism: introduced on first day of school and during orientation week. Integrated throughout Legal Methods course and addressed in other mandatory courses. All students must complete the Legal Profession and Professional Ethics course, a mandatory element of the Robinson Hall curriculum for over three decades.
Part 3: Substantive Legal Knowledge

Introductory notes: Required courses constitute approximately 2/3 of the total credit requirement of the program. “The program offered strives to present students with a balanced education comprised of doctrinal courses, perspective courses and clinical courses.” Legal Systems, a mandatory course, exposes students “to a range of topics and instructors to provide context to their legal studies” and orient them “to appreciate the complexity of law and the interrelationship between different areas of legal knowledge as a foundation for their balance of their legal studies.”

3.1 Foundations of Law:

- A broad introduction including legal history, common law and equity, and preliminary encounters with the administration of law, the court systems and the role of legislation and case law is provided in Legal Systems. Other mandatory courses, Legal Methods, Trusts and Administrative Law “provide greater depth and application of these foundations.”
- Statutory construction and analysis provided in upper year courses that cover area of law primarily governed by statute (Law of Evidence, Civil Procedure, Family Law, Income Tax).

3.2 Public Law of Canada: covered by first year mandatory courses, Constitutional Law and Criminal Law and by second year mandatory Administrative Law.

3.3 Private Law Principles: covered by five separate mandatory courses: Tort, Property, Contract Law (first year) and Corporations Law and Trusts (second year).

Part 4: Academic Program

- Total of 97 credits required for graduation
- Residency requirement
- Course of study consists primarily of in-person or interactive instruction
- Students who participate in exchange opportunities or visit other law schools on a letter of permission are generally required to have completed all of their required courses.
- For admission, students must have successful completion of two years of postsecondary education at a recognized university of CEQEP, subject to special circumstances

4. OBSERVATIONS
Observation 5.1 Based on the evidence obtained through the online survey and review of course syllabi, the Committee concludes that all three areas of competency required by the FLS are delivered within the current Robson Hall curriculum structure predominantly through the vehicle of mandatory courses. This conclusion is also reflected in Dean Turnbull's analysis of the curriculum reported to the FLS in April 2013.
Observation 8.2 Because the analysis is based on a review of documentation (e.g., course syllabi and self-reported compliance on the online survey), it is not possible to identify with precision, the comprehensiveness or impact of the content in terms of the curriculum as a whole.

Observation 8.3 The current Robson Hall curriculum identifies and requires 4 additional substantive knowledge areas that are not required by the FLS J.D. Competencies. These areas are Family Law, Tax, Trusts and Law of Evidence. However, it should be noted that 2 of these areas, Family Law and Law of Evidence are additional knowledge competencies identified along with Wills and Estates in the National Entry-level Competency Profile.

Observation 8.4 The concept of complexity has more than one interpretation. The present Robson Hall curriculum design seeks to achieve progression in each of the three areas of Doctrinal, Clinical and Perspective courses by increasing analytical and substantive complexity of individual courses available to students in the upper years. In comparison, the FLS J.D. Competencies require that students be exposed to complexity in substantive law.

Observation 8.5 Some legal concepts are covered in multiple courses offered at various points in the program. Such overlap can provide students with an opportunity to acquire a deeper appreciation of the complexity and interrelationships of law. However, it is currently impossible to determine whether the courses whose content appears to overlap (see for example, Figure 10 Commercial Law above) are imparting a deepening complexity of legal concepts appropriate to the students’ development through years 1 to 3 or whether legal concepts are simply repeated at the same level of complexity from year to year.

Observation 8.6 The first year course of Legal Methods is historically the only mandatory course to provide legal research and writing apart from the research paper requirement in the perspective courses.

Observation 8.7 The FLS requires 90 credit hours whereas Robson Hall currently requires students to complete 97 credit hours in order to graduate from the J.D. program.

E. RECOMMENDATIONS

Recommendation 8.1 The Committee acknowledges that all the FLS J.D. Competencies required for accreditation of the law school are met by the current curriculum. The Committee however recommends that Faculty Council monitor ongoing curriculum compliance with the FLS J.D. Competencies.
9) FAculty input into curriculum reform

A. Summary from faculty interviews
In the spring of 2012, the AI Committee sought input from full-time faculty members at Robson Hall on the current curriculum and any ideas they might have for change. The Committee sent all faculty members a questionnaire and also provided faculty members with background information intended to inform faculty input. The background information provided included an excerpt from the FLS Implementation Report setting out the required competencies, along with a document comparing mandatory upper year courses at Canadian common law schools (attached as Appendix 4). AI Committee members were assigned to interview all of their faculty colleagues. All faculty colleagues were asked five specific questions:

1. What do you see as strengths of our current curriculum?
2. What do you see as weaknesses of our current curriculum?
3. What would be your top three priorities for curriculum reform?
4. How do you see experiential/clinical opportunities and courses fitting into the curriculum?
5. In addition to the “competencies” required by the FLS Approved Common Law Degree, do you favour the inclusion of any additional objectives or competencies for our program?

Faculty colleagues were also asked to provide additional comments or suggestions that did not arise during their answers to the specific questions. This section of the report focuses on what faculty members perceive to be important J.D. program outcomes but also summarizes other key themes or areas of faculty concern that became evident during the interviews. (For a condensed list of the issues raised by faculty members during interviews, sorted by frequency the issues were raised, see Appendix 5).

1. J.D. Program Outcomes
To the extent it was discussed, most faculty members favoured acceptance of the competencies described by the Federation of Law Societies and endorsed by the Law Society of Manitoba. However, many faculty members suggested that the FLS list of competencies was incomplete and that Robson Hall should have its own list of required outcomes. The following list of additional outcomes was gleaned from the faculty interviews. They are categorized according to the scheme proposed by the FLS:

Additional Skills-based outcomes

Students should develop the skills necessary to:

- listen / interview / counsel clients
- manage a legal practice
- effectively communicate with clients in delivering legal services to official language minorities (in French)
- effectively engage in negotiation and identify appropriate dispute-resolution processes
- work collaboratively / collectively to prepare legal opinions, briefs, etc.
- carry out self-learning and pursue a reflective practice
- manage projects and time effectively

**Additional Outcomes relating to ethics and professionalism**

Students should:

- understand the lawyer's role outside the practice of law / public service
- develop be inculcated into a culture of professional and intellectual rigour / excellence

**Additional Outcomes relating to substantive legal knowledge of core concepts**

Students should:

- be able to critically assess legal doctrine in light of various perspectives (law in social context)
- understand basic concepts of legal theory and their link to the practice of law
- appreciate the history of law and the legal profession
- understand basic concepts of comparative / international / transnational law and their implication for the practice of law
- develop knowledge of the principles of indigenous law (in addition to FLS's emphasis on aboriginal rights in public law)
- develop an appreciation of interdisciplinary approaches to / analysis of law
- develop knowledge of the body of rules comprising other specific doctrinal areas of law: wills and estates, labour law, intellectual property, restitution, land titles, tax, family law
- rules of civil procedure and evidence

2. Other Broad Themes Arising from Faculty Interviews:

Several shared themes or areas of concern can be distilled from the faculty interviews. These are:

**Mandatory curriculum**

Most faculty members expressed support for the idea that a balanced legal education requires students to take some mandatory core courses, particularly in first year and also, to some extent, in upper years. However, supporters of a mandatory component to the J.D. curriculum stated that they were open to revisiting the scope and content of the mandatory core. Most faculty members recognized that student choice and/or flexibility was an important value to consider in reviewing this aspect of the curriculum. Many members also expressed the view that the criterion for
inclusion in the mandatory core curriculum should be the necessity of a course for the competent practice of law.

Legal research and writing

A very significant proportion of faculty members were of the view that by third year, students were not sufficiently trained in legal research and writing. Suggestions included improving the first year program and creating additional structured opportunities in the upper years of the J.D. program for students to develop legal research, analysis and writing skills (which we assume includes both general and legal writing).

Legal Systems

A large proportion of faculty members stated that the Legal Systems course should be reformulated. It was suggested that the course could be designed to achieve several outcomes, including communicating to students key foundational legal concepts (e.g., principles of common law and equity, perspectives on law) and mapping out how the different areas of law that students will encounter in their program relate to one another.

Clinical offerings

A significant proportion of faculty members expressed the view that students should be provided with enhanced opportunities for experiential learning and for learning in a clinic-based setting.

Sessional instructors

A significant proportion of faculty members expressed reservations about the Faculty’s use of sessional instructors, particularly in the teaching of non-clinical, core program offerings. Some faculty members suggested that this practice be closely monitored or revisited.

Principles to guide curriculum planning, progression and cohesion

A significant proportion of faculty members expressed approval of progression as a guiding principle in curriculum planning. This principle, adopted by the 1983 Curriculum Committee, favours a curriculum that provides students with courses of increasing complexity and sophistication in each of the three years of the J.D. program. Supporters of this principle observed that it was not successfully implemented in the current curriculum. Some faculty members also expressed the view that since the Faculty’s adoption of the 1983 curriculum, the Faculty had returned to an ad hoc and uncoordinated approach to curriculum development and that, to achieve a cohesive J.D. program, course offerings should be consistent with an articulated vision of legal education. For example, some faculty members stated that curriculum development should not be primarily driven by professorial interest. Evaluation of and inclusion

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86 No standard definition was provided for the terms “experiential” or “clinical.”
87 Note that this concern does not bear out in the numbers, if the definition of “core” is mandatory core courses.
of a new course offering should not be judged solely on inherent academic merit without reference to its relationship to the overall curriculum.

Some faculty described the ad hoc practice of adding courses based on research interests as evidence of an imbalance between research and teaching, in favour of research. In a similar vein, some faculty observed that teaching needs should play a greater role in hiring decisions. On the other hand, some members of faculty felt that research was not sufficiently valued at Robson Hall.

Evaluation: Some faculty also expressed the need for improved coordination of assignments and workload and increased consistency in expectations for the students in each year of the program.

Excellence

Some faculty members indicated that the cultivation of excellence and the stimulation and pursuit of professional and intellectual excellence must be included in any guiding principles for choosing the courses for the J.D. program.

B. ADDITIONAL FEEDBACK GATHERED FROM ONLINE SURVEY

In addition to the FLS findings from the online survey regarding compliance with FLS competencies, faculty members related the following concerns, priorities and insights:

- Some participants expressed concern that the balance of mandatory versus non-mandatory courses did not offer students enough personal choice in their study of the law.
- Participants expressed commitment to having mandatory core courses delivered by full time faculty versus sessional instructors to ensure that students have extensive access to faculty for questions and discussion.
- Participants raised questions about the pedagogical value of the final examination as the only or primary evaluation method.
- There was consistent support for the necessity of clinical courses as an effective method to teach skills.
- Participants were committed to the concept that the J.D. program must consciously create a progression in the learning for the student so that later courses build on earlier courses and by the last year of the program students are engaged in much more complex legal matters and content than they addressed in their first year.
C. PRELIMINARY SUMMARY OF FACULTY PERSPECTIVES ON CURRICULUM REFORM

Based on the above evidence, the Committee has observed that a number of the values related to curriculum identified by previous and current faculty have remained essentially the same. These include:

- a desire for progression and cohesion from year to year;
- a desire for clinical learning;
- a desire for flexibility to “accommodate significant changes in legal education, legal thinking and in the legal system itself”;
- desire for balance among course offerings to provide students with substantive law and with an understanding of legal complexity and the connections between the different legal areas; and
- a desire to provide students with “a more humane and broader understanding of legal institutions and phenomena generally through the prism of knowledge drawn from other disciplines”

- desire for flexibility to allow student choice

Members of the current faculty have begun to voice additional values. These include:

- desire for greater flexibility to increase student choice;
- desire to increase responsiveness to student demands and opinions;
- desire to provide students with the opportunity to obtain knowledge and skills to enable them to work in the practice of law and/or law-related areas;
- desire for integrated experiential learning;
- desire for integrated delivery of legal research and writing skills;
- desire to improve access to justice;
- desire to instill values of professional excellence;
- desire to impart global/international awareness;

D. FACULTY INPUT ON ADDITIONAL LEARNING OUTCOMES FROM AUGUST 2013 RETREAT

At a faculty retreat in August 2013, the Committee sought additional faculty input respecting recommended learning outcomes for the overall J.D. Program over and above the FLS J.D. Competencies. Participants reviewed and discussed a chart that listed the FLS J.D. Competencies alongside Additional Learning Outcomes for the J.D. Program identified to date from the selective literature the Committee had reviewed and from faculty interviews. The Committee asked the Participants to discuss in small groups which Additional Learning Outcomes should be
kept on taken off and added to the list. The chart and a summary of the discussion at the retreat is attached as Appendix 6.

The Committee did not ask the participants to reach agreement or consensus and views about additional areas of substantive knowledge, skills and attitudes/attributes that Robson Hall should cover in the core curriculum varied. However, certain ideas and observations appeared to have a broad base of support among those present. These are set out below.

1. **Additional Outcomes relating to Substantive Law**
   - It is better to specify that students will know “core concepts” of an area of substantive law than to imply that the students must know the entire area.
   - Nunez is important when stating the level of knowledge required (i.e. what is the appropriate level of knowledge—awareness, understanding etc.—for each concept?).
   - We need to prepare students for the future practice of law, which is in a period of significant change right now with DIY law on the Internet etc.
   - If our objective is to prepare students for practice, we need to include core concepts of areas they will need for practice. (The participants did not agree about what these would be and one group suggested using an evidence-based approach for making this decision.)
   - It is important to increase student awareness of the impact of globalization on law including comparative and transnational law.
   - A critical analysis of the law is important (within its broader context and from a variety of perspectives).

2. **Additional Outcomes relating to Skills**
   The need for additional outcomes respecting the following skills received fairly broad support:
   - writing (both legal writing in a broad range of contexts and the theoretical and critical writing required for research papers)
   - problem-solving
   - creativity
   - legal research (again both for legal writing and research papers)
   - working collaboratively/strong interpersonal and communication skills

3. **Additional Outcomes relating to Attitudes (Professionalism/Ethics)**
   The need for additional outcomes respecting the following attitudes received fairly broad support:
   - professionalism
   - practice management where relevant to ethics and professionalism (i.e. impact of time management problems and taking on too much work on professionalism)
   - awareness of importance of self-reflection and how to be self-aware
4. French Legal Services

Canada's Parliament and Manitoba's legislature are constitutionally obligated to enact laws in French and English. The French and English versions of these statutes are equally authoritative. A lawyer in Manitoba who does not have the skills to interpret the French-language version of a Manitoba or federal statute or who does not know enough to refer a statutory interpretation issue to a colleague who has these skills does not competently represent his or her client. Anyone in Manitoba has a legal right to use French in legal proceedings before Manitoba's Provincial Court, Court of Queen's Bench and Court of Appeal. Under Canada's Criminal Code, everyone has the right to be tried by a judge and jury in the official language that(s)he considers to be his/her own. There is a significant francophone minority in Manitoba.

Robson Hall has in recent years included in its curriculum the development of students' skills in effectively communicating with clients and delivering legal services in French to Manitoba's francophone official languages minority, a fact also noted in the faculty interviews. Initiatives have included offering a French-language section of Legal Methods, the opportunity to judge-shadow in French and an upper-year optional course in François Juridique.

E. OBSERVATIONS

Observation 9.1 There is an ongoing commitment to the fundamental philosophy of balance, coexistence and progression articulated in the Osborne and Essau Report, but there is widespread consensus among faculty members that our current program fails to incorporate that philosophy.

Observation 9.2 There is support for a mandatory core curriculum. Many members expressed the view that the criterion for inclusion in the mandatory core curriculum should be the necessity of a course for the competent practice of law. However, there is a desire to re-examine the core curriculum (primarily in upper years) in order to reconcile it with another goal identified by some faculty members, namely, that students should have more flexibility and choice in course offerings.

Observation 9.3 At the time of drafting, the Committee did not have Robson Hall specific data regarding student body views on the current curriculum.

Observation 9.4 There is significant support for expanding experiential offerings through the integration of experiential education across the J.D. curriculum. In July 2013, a Director of Experiential Learning was hired to assess and report on current experiential education offerings and make recommendations for the Robson Hall curriculum.

Observation 9.5 There is an identified need to improve students' legal research and writing skills. Faculty members have voiced the expectation that upon completion of first year law, students should be sufficiently equipped to produce research papers of a high standard by second and third year. However, their expectation has not been met. Responses to the online
survey show that doctrinal, clinical and perspective courses include legal research as an area of instruction throughout all three years. This demonstrates a disconnect between instructor expectations and the delivery of research and writing skills across the curriculum.

Observation 9.6 There is no consensus among faculty about all additional substantive areas of law, skills or attitudes/attributes that the curriculum should cover.

Observation 9.7 There is relatively broad support for adding learning outcomes relating to certain skills and attitudes. These are: creative thinking, critical analysis of law (within context and from varied perspectives), problem-solving skills, interpersonal communication skills and the ability to work collaboratively.

Observation 9.8 There is also relatively broad support for increasing student awareness of the impact of globalization on law including comparative and transnational law.

Observation 9.9 One suggestion is to use an evidence-based approach to identify learning outcomes that will be needed for practice, now and in the future.

Observation 9.10 Faculty were generally in favour of an approach that would articulate learning outcomes related to core concepts of substantive law in a pedagogically-deliberate way (i.e. by identifying the appropriate level of knowledge required for each concept.)

Observation 9.11 There is still a firm commitment to giving students the opportunity to be practice ready as long as this can be reconciled with student choice (if that principle/goal is adopted). The perception of many faculty members is that student choice is less about increasing the number of electives, and more about reducing the number of mandatory courses in upper years. The expectation is that a reduction of mandatory courses will increase student opportunity to self-direct their learning from the different choices available.

Observation 9.12 Awareness of the principles of Indigenous law as a learning outcome has assumed growing significance in Robson Hall’s curriculum in the recent past. Robson Hall has made the deliberate choice to expose first-year students to Indigenous legal traditions in their orientation week and in the Legal Systems course. The importance of awareness of Indigenous legal traditions as a learning outcome was raised in the faculty interviews.

Observation 9.13 Canada’s Constitution guarantees the equal status of the French and English versions of federal and Manitoba statutes and the right of Manitobans to use French in legal proceedings in Manitoba courts. Moreover, Canada’s Criminal Code provides that everyone has the right to be tried by a judge and jury in the official language that (s)he considers to be his/her own. In light of Manitoba’s legal framework and of the presence of a significant francophone minority in Manitoba, Robson Hall currently offers its students the option to join a French-language section of Legal Methods, to judge-shadow in French and to take an upper-year optional course in François Juridique.
F. RECOMMENDATIONS

Recommendation 9.1 The Committee recommends that curriculum development take place within a coherent and rational policy framework animated by Guiding Principles rather than ad hocery.

Recommendation 9.2 The Committee recommends Progression and Flexibility as Guiding Principles that should be implemented throughout the program.

Recommendation 9.3 The Committee recommends that special attention should be given to the development of legal research and writing skills (both legal writing in a broad range of contexts and the theoretical and critical writing required for research papers) and implemented in accordance with the Guiding Principle of Progression.

Recommendation 9.4 The Committee recommends that a mandatory core of first year courses be maintained but that its content be consistent with the Program Objective, Learning Outcomes and Guiding Principles articulated in this report.

Recommendation 9.5 The Committee recommends an approach to developing knowledge-based learning outcomes that identifies appropriate levels of knowledge respecting core concepts of substantive law and that incorporates the Guiding Principle of Progression.

Recommendation 9.6 The Committee recommends adopting additional Learning Outcomes in the core curriculum relating to the following: creative thinking, critical analysis of law (within context and from varied perspectives), problem-solving, advocacy and dispute resolution skills, inter-personal communication skills, the ability to work collaboratively, awareness of globalization’s impact on law and awareness of indigenous legal traditions.

Recommendation 9.7 In the event the Faculty decides to develop Learning Outcomes and a Program Objective with the aim of preparing students for practice, the Committee recommends an evidence-based approach for determining what these outcomes should be (i.e. what will students need to practice law now and in the future). In particular, the Committee recommends that attention be paid to the knowledge, skills and tasks identified by the FLS in its National Entry-Level Competency Profile as required for the first five years of practice.

Recommendation 9.8 The Committee recommends that Student Choice be identified as a Guiding Principle but that its implementation be aligned with Learning Outcomes and balanced with other Guiding Principles.

Recommendation 9.9 The Committee recommends that the law school’s curriculum be responsive to and take advantage of the strengths and expertise of its Faculty in order to optimize, in a manner consistent with the Learning Outcomes and Program Objective, the pursuit of knowledge and research excellence. Accordingly the Committee recommends as a Guiding Principle, Research Optimization, defined as the deliberate consideration of, and maximized
reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

**Recommendation 9.10** The Committee recommends that subject to directives from Faculty Council in response to future recommendations including those made by the Director of Experiential Learning, some form of experiential education be integrated across the curriculum.

**Recommendation 9.11** The Committee recommends the articulation of Learning Outcomes related to core concepts of substantive law in a pedagogically-deliberate way (i.e. by identifying the appropriate level of knowledge required for each concept).

**Recommendation 9.12** It is the Committee’s view that optional courses and student choice are critical to the students’ development of self-directed learning skills. The Committee recommends that all optional courses as well as decisions to change a course designation from mandatory to optional be premised on the development of self-directed learning skills. The specific knowledge content and point of delivery of optional courses in the curriculum must be evaluated in light of how each course helps to achieve the Program Objective and Learning Outcomes in a manner consistent with Guiding Principles.

**Recommendation 9.13** As Manitoba’s only law school, Robson Hall has a responsibility to ensure that students can acquire the skills necessary to give effect to the constitutionally guaranteed language rights of members of Manitoba’s francophone minority. The Committee acknowledges that it would be unworkable to adopt as a learning outcome that all Robson Hall graduates acquire skills in effectively communicating with clients and delivering legal services in French. Accordingly, the Committee recommends that students be afforded the option of acquiring such skills in accordance with Recommendation 9.12.
10) SELECTED LITERATURE REVIEW: LAW SCHOOL CURRICULUM REFORM-GENERAL TRENDS

The literature on legal education and curriculum reform is voluminous and accordingly any literature review will necessarily be partial and selective. While there is some significant Canadian literature, the vast majority of commentary on legal education has an American focus. Much of the commentary is also “mired in rhetoric and ... woefully short on specifics” for meaningfully transforming legal education to meet new (and old) challenges. Some of the writing is anecdotal although a growing body is more evidence-based. Finally, there are significant barriers to fundamentally reforming law school curricula. Some of the barriers include resource limitations, faculty member experiential bias along with lack of knowledge and lack of skills in management and educational theory. As described by Mary Anne Bobinski, Dean of UBC Law School in 2011:

There are powerful forces that lead curriculum reform efforts to result in reproduction rather than reinvention. Proposals to change law school curricula regularly encounter quite substantial barriers, which ultimately can deeply affect the chances for success of the curriculum reform effort. It is important to recognize the significant challenge of change for any law school. Law schools in the U.S. and Canada have substantial investments in relatively fixed assets. Most law schools are governed to a significant extent by faculty members who are tenured or tenure track. These faculty members were educated on particular topics in a certain way, creating a powerful set of norms and expectations about what legal education has been and should continue to be. Perhaps more importantly, they arrive in their law professor roles with highly advanced knowledge and skills in some substantive areas but not, typically, in organizational change management or educational theory.

With these considerations in mind, this section of the report is focused on: a) summarizing legal education reform insights which are legal practices-focused, and b) summarizing legal education reform insights which call for the integration of critical legal theory and methodologies into the curriculum.


68 Mary Anne Bobinski, “Symbols and Substance in Curricular Reform in the United States and Canada” online: http://www.iadanet.org/meetings/teaching/papers/2bobinski.pdf (the also notes institutional barriers such as limited resources and university bureaucracies which also make change challenging). On the many ways that law school teaching and curriculum are resistant to change, see also Marlene Le Brun and Richard Johnson, The Quiet Revolution: Improving Student Learning in Law (Sydney: The Law Book Company, 1994) at 28-38 (citing institutional, discipline based, personal, and cultural reasons).
A. REFORM FROM PRACTICE/PROFESSIONAL PERSPECTIVE

In terms of practice-oriented reform, two key documents have received significant attention in recent years. These are the 2001 report, *Best Practices for Legal Education: A Vision and Road Map*90 otherwise known as “The Stueky Report” and the 2007 report, *Educating Lawyers – Preparation for the Profession of Law* also known as “The Carnegie Report.”91 It might be noted for the reader that the reader will encounter some overlap with concepts that have been articulated earlier under Section 7.

1. The Stueky Report: Preparing law students for the practice of law as members of a client-centered public profession.

There is a growing body of scholarship on legal education that draws on educational theory and research on adult learning in the legal education context. A source that exemplifies this focus is the *Statement of Best Practices for Legal Education* with Professor Roy Stueky of the University of South Carolina School of Law as Chair. The committee produced a final publication (after consulting widely on drafts) in 2007: Roy Stueky and others, *Best Practices for Legal Education* (“The Stueky Report”). In the Forward to The Stueky Report, Robert MacCrone Esq., describes the initiative in these words:

Over the ensuing five years the authors ... have distilled out of the continuing dialogue a consensus of understanding of an alternative vision of all the components of legal education, based on educational research and scholarship; an integrated combination of substantive law, skills, and market knowledge, and embracing the idea that legal education is to prepare law students for the practice of law as members of a client-centered public profession.

The central message in both BEST PRACTICES [and the contemporaneous report of the Carnegie Foundation “Educating Lawyers...”] is that law schools should:

- broaden the range of lessons they teach, reducing doctrinal instruction that uses the Socratic dialogue and the case method;
- integrate the teaching of knowledge, skills and values, and not treat them as separate subjects addressed in separate courses, and
- give much greater attention to instruction in professionalism.

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92 Supra note 89.
At the same time, the reports recognize that the program of instruction should reflect each law school's mission for developing competent and committed professionals.

Accordingly, the Stuckey Report sets out recommendations "best practices" along with the supporting rationale for all components of legal education, from setting goals to designing and delivering effective programming in experiential and doctrinal courses. The Stuckey Report is divided into the following chapters:
1. Reasons for Developing a Statement of Best Practices
2. Best Practices for Setting Goals of the Program of Instruction
3. Best Practices for Organizing the Program of Instruction
4. Best Practices for Delivering Instruction: Generally
5. Best Practices for Experiential Courses
7. Best Practices for Assessing Student Learning
8. Best Practices for Assessing Institutional Effectiveness
9. Components of a "Model" Best Practices Curriculum

For the purpose of this literature review, we summarize only the first three chapters of the Stuckey Report as these chapters are most relevant to the AI Committee's mandate of identifying the Program Objective, Guiding Principles and Learning Outcomes for the Robson Hall curriculum. The remaining chapters 4 through 9 of the report set out best practices for elements of legal education delivery that are more relevant at the implementation stage of the AI Committee's (or its successor committee's) work.

In Chapter One, Stuckey et al provide their basic rationale for developing a statement of best practices for educational law. They note that such a statement can help to evaluate the quality of a law school's program of instruction and guide efforts to improve it. The authors' basic premise is that "law schools are or ought to be the primary source of the skills and knowledge requisite to the practice of law" because they have the "virtual monopoly" on preparing people to enter the profession. Adopting and following "best practices" for legal education will, in the authors' view, help to prepare law schools to meet this obligation.

Chapter Two sets out the first set of "best practices", which are those for "setting goals of the program of instruction". The authors have organized the chapter as a series of six principles, each followed by a brief commentary. These are summarized in some detail given their relevance to the AI Committee's work:

1. The first principle requires the school to be "committed to preparing its students to practice law effectively and responsibly in the contexts they are likely to encounter as new lawyers". The authors further comment that the school should include this commitment in its mission statement.

2. The second principle requires the school to "clearly articulate its educational goals". According to the comments, a law school can only determine whether it is achieving its...
educational goals if the goals are clear and specific. The school should publish its goals and make them available to prospective and current students, alumni, and employers.

The third principle is to “articulate [the school’s] educational goals in terms of desired outcomes, that is, what the school’s students should know, understand, and be able to do, and the attributes they should have when they graduate”. After describing the global movement toward outcomes-based education, the authors set out principles for developing and stating outcomes in the context of legal education (i.e. working collaboratively with bench and bar, all faculty, and, ideally, other law schools; basing outcomes on the school’s mission; and building progressively from an initial focus on the most basic knowledge, values and skills students need). The authors further set out a variety of potential “outcome statements” from different sources before settling on their preferred outcome statement, a modified version of that developed by the Law Society of England and Wales to describe competencies a new lawyer should have upon entering practice.30

The fourth principle is to “articulate the goals for each course (or other component of the program of instruction) in terms of desired outcomes”. For this principle, the authors provide a series of examples of well-articulated outcomes from a Scottish legal education program. They also make the following suggestion:

As a starting point, law teachers may want to ask practicing lawyers what new lawyers need to know, understand, and be able to do when they begin practice. We could then examine the content of our courses, perhaps with the aid of practicing lawyers, and ask what beginning lawyers really need to know and be able to do.31

Stansky et al state the fifth principle in the following terms:

The program of instruction aims to develop competence, and graduates demonstrate at the point of admission the ability to solve legal problems effectively and responsibly, including the ability to:

- work with clients to identify their objectives, identify and evaluate the merits and risks of their options, and advise on solutions;
- progress civil and criminal matters towards resolution using a range of techniques and approaches;
- draft agreements and other documentation to enable actions and transactions to be completed; and
- plan and implement strategies to progress cases and transactions expeditiously and with propriety.32

30 The Stansky Report ibid at 32-4, 39.
31 ibid at 39.
32 ibid.
The authors argue that the core of competency is legal problem-solving. They state: “helping students acquire an understanding of legal problem-solving and to begin developing their expertise as problem-solvers is the most important task of legal education”. Moreover, the kind of careful instruction, study, practice, and reflection that will help students more quickly become effective, responsible problem-solvers can and should occur in law school, even though students’ problem-solving expertise will not fully develop until years after graduating from law school.

The sixth and final principle requires that “graduates have and are able to demonstrate at the point of admission to practice the attributes of effective, responsible lawyers, which include the following knowledge, understandings, skills, and abilities:

- **self-reflection and lifelong learning skills.**
  - students develop the ability to assess their learning needs realistically over time and make a plan for improvement
  - Note: pedagogically this involves giving students the opportunity to “learn how to learn from experience” i.e. “helping students learn how to analyze their performances and generalize from these experiences”

- **intellectual and analytical skills.**
  - in addition to traditional analytical skills, students need to begin to exercise professional judgment in legal settings and engage in legal problem-solving in an environment where they develop self-efficacy through sequenced instruction that builds on early successes

- **core knowledge of the law and core understanding of the law.**
  - substantive legal knowledge likely needs not be as broad as is currently taught, given the basic needs of novice lawyers and quickly changing nature of law

- **professional skills [which include],**
  - communicating effectively with clients, colleagues, and members of other professions;
  - recognizing clients’ financial, commercial, and personal constraints and priorities;

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86 Ibid at 65.
87 Ibid.
88 Ibid at 65-66.
89 Experiential education is considered the best tool for helping students develop self-directed learning skill”. [One approach is to teach students] theories of practice and provide them with information, models, and frameworks that will enable them to develop exposed theories of action against which their performances can be compared. “Without theory and the ability to theorize, one modulates through a often ineffective, and cannot generalized from experience.” Ibid at 125-129.
the ability to advocate a case on behalf of others, and to participate in trials to the extent allowed upon admission to practice;
- effective use of current technologies and strategies in process and store information and undertake factual and legal research;
- an appreciation of the commercial environment of legal practice, including the market for legal services;
- the ability to recognize and resolve ethical dilemmas;
- effective skills for client relationship management and knowledge of how to act if a client is dissatisfied with the advice or service provided;
- risk management skills;
- the capacity to recognize personal and professional strengths and weaknesses, to identify the limits of personal knowledge and skill, and to develop strategies that will enhance professional performance;
- the ability to manage personal workload and to manage efficiently, effectively, and concurrently a number of client matters; and
- the ability to work effectively as a member of a team,

and

- professionalism.
  - students need to understand and be imbued with a commitment to the values, behaviors, attitudes, and ethical requirements of a lawyer
  - these include (among others): a commitment to justice; respect for the rule of law; honor, integrity, fair play, truthfulness, and candor; sensitivity and effectiveness with diverse clients and colleagues; and "sustaining quality of life"

Chapter Three sets out the next set of "best practices", which are those for "organizing the program of instruction". The authors have organized the chapter as a series of four principles, each followed as before by a brief commentary.

The first principle is that "the school strives to achieve congruence in its program of instruction". The idea here is to achieve congruence throughout the curriculum in that each course has outcomes that align with the goals of the overall program, which in turn, align with the law school's mission. The authors also emphasize the importance of evaluation that focuses on course outcomes. Viewed together, the courses should achieve the desired outcomes and advance the school's mission. Stuckey et al finish by discussing curriculum mapping as a strategy to enhance congruence.

The second principle is to organize the program of instruction "to provide students coordinated educational experiences that progressively lead them to develop the knowledge, skills, and values required for their first professional jobs" (p.94). Stuckey et al note that the Association of American Colleges and Universities recognizes the importance of organizing the program of instruction to foster progressive development of desired outcomes. This may mean less choice on the part of faculty, and

\(^{99}\) Ibid at 93.
possibly of students, respecting courses offered/taken. According to the authors, curriculum design should be guided by a school’s educational goals. Existing courses and new course proposals should be evaluated in light of how each course helps the school achieve its educational objectives.103

The third principle is that “the program of instruction integrates the teaching of theory, doctrine, and practice”.104 According to the authors, who cite numerous sources in support of this claim, context-based learning enhances doctrinal and theoretical knowledge and fluency as much as it facilitates practical skills.

The fourth and final principle is to provide “pervasive professionalism instruction and role modeling throughout all three years of law school”.105 In addition to courses specific to ethics and professionalism, all faculty should consciously and intentionally contribute to their students’ understanding of and commitment to professional behavior throughout the students’ law school experience.


A major theme in the legal education literature is the extent to which law school curriculum and teaching methods have been focused on the case method and the acquisition of doctrinal knowledge and analytical skills, with little attention to the other skills, as well as ethics and professionalism, which are relevant to legal practice.106 The recent economic downturn has drawn increased attention to this issue and calls, particularly in the American context where there is no articling requirement, for the overhaul of legal education to produce “practice-ready” graduates.107

In 2007, the Carnegie Foundation for the Advancement of Teaching published a report titled Educating Lawyers – Preparation for the Profession of Law (the “Carnegie Report”).108, the product of a two-year study involving intensive field work that sought to reassess teaching and learning in (mostly) American and (a few) Canadian law schools.109 The authors concluded that by over-emphasizing the case-dialogue method, legal education had failed law students in two important ways:

103 Id. at 96.
104 Id. at 97.
105 Id. at 100.
109 Ibid.
• It had failed to give sufficient attention to teaching students to think like “apprentice practitioners,” solving clients’ problems; and
• It had failed to provide students with the support they needed to develop ethical and social skills, in particular “opportunities to learn about, reflect on and practice responsibilities of legal professionals.”

To remedy these deficiencies, the authors of the Carnegie Report recommended that law schools offer an “integrated curriculum” comprising three elements:

1. The teaching of legal doctrine and analysis, which provides the basis for professional growth (i.e., “traditional” law school curriculum and development of skills to “think like a lawyer”);

2. An introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients (i.e., practical application of knowledge to resolve the specific needs of clients); and

3. Exploration and assumption of the identity, values and dispositions consonant with the fundamental purposes of the legal profession (i.e., the professional and ethical context of lawyering).

The authors of the Carnegie Report proposed that the elements of legal analysis, lawyering, and professionalism be joined together beginning in first year and that legal doctrine be taught in part in a practice setting rather than solely in case-dialogue courses. The authors endorsed a progressive approach to legal education by proposing that law schools design third-year as “a kind of ‘capstone’ opportunity for students to develop specialized knowledge, engage in advanced clinical training, and work with faculty and peers in serious, comprehensive reflection on their educational experience and their strategies for career and future professional growth.”

Sullivan et al propose an integration of student learning of theoretical and practical legal knowledge and professional identity, through faculty responsible for the different components communicating with, learning from and contributing to each other’s purposes. The authors then elaborate an approach that integrates the three key emphases in legal education of: legal analysis, training for practice, and professional identity.

Legal analysis (the first emphasis) can be taught in large lecture courses. It “supplies the essential background assumptions and rules for engaging with the world through the medium of law” (p. 13) It only becomes alive, however, through application in a practice setting, (i.e., learning to understand and intervene in a variety of settings).

Because practical skill (the second emphasis) develops through the process of modeling, habituation, experiment and reflection, a different type of setting and approach is necessary and

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108 ibid., 6.
109 ibid., at 8.
110 ibid., at 9.
practical skill development involving real clients is particularly important. At the same time, practical skill development should remain reflective, with students learning, critiquing and reflecting on how we do what we do and drawing on other disciplines as appropriate.

**Professional identity** (the third emphasis) joins the first two and is the catalyst for an integrated legal education. The focus here is to educate students about the purposes of the profession and to assist them to form their identity as lawyers, guided by these purposes.

In Chapter 1, Sullivan et al elaborate on the notion of the “profession” and the resultant goals of professional education. They state that professional education accomplishes six common tasks, all of which are important given their commonplace role in professional practice:11

1. Developing in students the fundamental knowledge and skill, especially an academic knowledge base and research;
2. Providing students with the capacity to engage in complex practice;
3. Enabling students to learn to make judgments under conditions of uncertainty;
4. Teaching students how to learn from experience;
5. Introducing students to the disciplines of creating and participating in a responsible and effective professional community; and
6. Forming students able and willing to join an enterprise of public service.

In assessing how law schools prepare students, the authors found two concepts particularly helpful: **signature pedagogies and apprenticeship/modeling.** They note that the signature pedagogy in law is the case dialogue, with its teaching of a detailed and pointed analysis that is very different from thinking in daily life.12 The authors also state that recent developments in cognitive psychology have moved apprenticeship back to the forefront in professional education. Study of the cognitive processes of high performing experts suggests that expertise is developed by an expert modeling performance in such a way that the learner can imitate while the expert gives feedback.

The report recognizes that faculty members will require appropriate institutional support to develop an integrated curriculum. For example, faculty members who focus on doctrinal courses would need to be given opportunities to observe or participate in courses and clinics that focus on lawyering and integrate what they learned there into their own courses.13

3. Additional Contributions on Reform from Practice/Professional Perspective

An article written by Keith A. Findley in 2007 about the history of curriculum reform at the University of Wisconsin Law School14 reveals a commitment to problem-based learning similar to that featured in both the Stuckey and Carnegie reports. Findley provides a useful overview of trends in U.S. legal education (some of which are arguably similar to Canadian trends and some of which are more specific to the American context), including the move from practice-based to

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11 Ibid. at 22.
12 Ibid. at 24.
13 Ibid.
university-based legal education in the 19th and early 20th century, the development and longevity of the case method, the growth of clinical education in the mid-late 20th century, and the renewed calls for a focus on "practice-readiness" and the integration of lawyering skills in recent years. He notes the concern of law professors that law school not become a "trade school," a fear which has sometimes marginalized the role that skills development and clinical learning can play in legal education, before going on to argue that "expanding legal education beyond case and doctrinal analysis ... represents a move toward a more, not less, rigorous approach to the study of law" because it is rich in conceptual and practical elements.

The author describes the benefits of a "problem-centered" curriculum in which "law students are presented not with the end-product of a case -- the appellate decision -- but a complex factual problem which the students must analyze, sifting through the facts, analyzing the law, and developing a strategy for solving the legal problem or problems presented." He notes that the problem method is widely used in business schools and medical schools, but less so in law schools. Finally, the article discusses efforts to incorporate problem-centered learning in the JD curriculum at Wisconsin. For example, the first year legal writing and advocacy program requires that students work through "case files with memos, letters, motions, affidavits, leases, and other documents a lawyer or judge might find in her file... Students are also provided relevant cases and statutes, and are then asked to address a problem that a lawyer or judge must solve." Findley goes on to note that this approach is only marginally integrated into the remaining curriculum and discusses further reform efforts undertaken at Wisconsin to bring a more problem-centered approach across the curriculum.

4. Integration of Critical Legal Theory and Methodologies across Curriculum

A significant critique of contemporary legal education is the claim made by Australian legal scholar Margaret Thornton and others in the late 1990s that it is "technocratic" or "techno-centric." By favouring forms of legal reasoning and analysis that tend to reinforce a notion of the law as a system of technical rules which students can learn through "docile" immersion in the case method, she argues that legal education encourages students to view law as neutral and unrelated to social context.

In their 2001 article, "Back to Basics: University Legal Education and 21st Century Professionalism," Annie Rochette and Wes Pue examine the "back to basics" critique of legal education often leveled by members of the practicing bar. They note that members of the profession (at least in British Columbia where the authors' study is focused) have lamented what they see as a competency gap among (some) Canadian law graduates, with the remedy proposed often being that students take more "core" courses in traditional doctrinal subject areas. Rochette and Pue view these claims as incidentally-based and accordingly have sought to bring some
evidence to bear on these claims. After reviewing three years worth of data on course selection by UBC law students in the 1990s (in a context where second and third year curriculum was almost entirely optional), Rochette and Pee noted that over 60% of courses selected by students were those considered “core” courses. They note that, including the mandatory “core” courses in first year, “73% of the course work done by UBC law students during the past decade has been in fairly narrowly defined ‘meat and potato’ areas of substantive law or skills training.” They argue that the call for more coverage of “core” substantive law reflects a narrow vision of legal education and that alternative models, such as a focus on developing reflective practitioners, offers more potential for preparing law school students for legal practice and citizenship.

The critical legal theory-inspired approach to reform briefly described above is also reflected in the CALT-CLSA Joint Committee response to the FLS Discussion Paper (discussed earlier in Section 7.D above). As stated by CALT-CLSA Joint Committee:

[The higher education objectives of law faculties] include, in addition to analytical rigour and substantive knowledge, the promotion of deep understanding of knowledge claims, a capacity to critique those knowledge claims, the implication in students of the desire and ability continuously to educate themselves, and self reflection. These goals are realized, for example, through the encouragement of critical perspectives, interdisciplinarity, the inclusion of philosophical and sociological dimensions, the exposure of students to different research methodologies, and the fostering of open, self-directed learning.

Proponents of this approach tend to favour a largely optional upper year curriculum, being critical of the idea that requiring a large number of (often doctrinal) courses in upper years actually gives students a false impression about the practice of law and does not equip them to truly “think like a lawyer.” As described by Harry Arthurs, “professionalization is meant to engage students intellectually and, at the same time, to help them prepare for varied and unpredictable futures.” Arthurs conceives of law schools as “knowledge communities” that teach students how to learn and think. Observing that the practice of law is varied and not at all static because of pressures such as globalization and the effects of technology, Arthurs argues that “if graduates are going to have to educate themselves during their future careers, in order to adapt to a changing society, they must learn to learn. The optional curriculum — if it is properly structured


132 Arthurs, supra, at 9.
and involves advanced, interdisciplinary, and capstone courses – ensures that students will do just that.\textsuperscript{125}

It is worth noting that Sarah Buhler has applied the Thornton technocentric critique beyond substantive law considerations into Canadian \textit{clinical} legal education. Buhler argues that the problem of technocentrism extends beyond conventional law school classroom teaching to clinical and experiential learning.\textsuperscript{126} She suggests that there is an “anti-critical” rhetoric which tends to view clinical legal education as a vehicle for the transfer of a set of pre-determined lawyering skills to students. Instead, she argues, “clinical legal education should be viewed as an opportunity for students to learn, through critical reflection upon experience, about the contested, contextual, and political nature of legal practice, and to begin to develop skills that reflect this critical understanding.”\textsuperscript{127}

B. OBSERVATIONS

Observation 10.1 Some of the significant barriers to reform of law school curricula that have been identified include resource limitations, faculty member experiential bias, faculty member lack of knowledge and skills in management and educational theory.

Observation 10.2 The Stuckey and Carnegie Reports analyze legal education reform from the perspective of competent legal practice and categorize legal education reform initiatives along two principal lines namely:

a. Student competencies: The skills, knowledge and attitudes the law student should acquire; and

b. Delivery of the opportunities through which students can acquire those competencies.

Student competencies identified in both reports include:

i. \textit{Client-c}entered skills and knowledge (e.g. intellectual and analytical skills; knowledge of core areas; professional skills including communication, advocacy, problem-solving);\textsuperscript{128} and

ii. Self-reflection and life-long learning skills

Delivery of opportunities for students to acquire these skills should adhere to principles such as coordination, congruence (or “instructional alignment”); progression (or progressive development); and integration.

Observation 10.3 Integration featured strongly in both The Stuckey and Carnegie Reports. The Stuckey Report identified integration of theory, doctrine and practice. The Carnegie Report

\textsuperscript{125} Antimos, \textit{ibid.}


\textsuperscript{127} \textit{Ibid.}, at 2.

\textsuperscript{128} The Stuckey Report describes legal problem-solving as the “core” of competencies.
identified integration of **doctrine, practice and professional ethics** in pursuit of the goal of professional identity. Both the Stueckey and Carnegie Reports identified the use of problem-solving or problem-centred approaches as a way to address integration.

**Observation 10.4** Ethics and professionalism also featured strongly in both The Stueckey and Carnegie Reports.

**Observation 10.5** The term “modelling” is used in both the Stueckey and Carnegie Reports. In the Stueckey Report, modelling is suggested as a means for faculty to impart professional behaviour and social skills. In the Carnegie Report, expert modelling is suggested as a method of training students in legal skills. Modelling is thus identified as important to the development of professional identity and the development of practical skills.

**Observation 10.6** Preparing law students to be competent and ethical lawyers is an important objective of legal education. At the same time, in addition to preparing lawyers for practice, university-based law faculties have higher education objectives such as exposing students to interdisciplinary, philosophical and sociological dimensions of law and critical legal theory and methodology and encouraging their development as critical legal thinkers. The varied objectives of preparing law students as lawyers and the objectives of higher education are often presented in tension or in conflict.

**Observation 10.7** According to the literature, setting clear objectives for the J.D. program is key to any curriculum reform project. In addition to the consideration of best practices as identified in current educational reform literature, law school reform should be guided by the particular school’s educational goals, mission, vision, and values.

**Observation 10.8** Meaningful implementation of an integrated curriculum will be resource-intensive in terms of faculty support to bolster and/or revise existing programs, as well as to develop new ways of teaching and collaborating with the profession, which may require additional personnel and other resources.

### C. RECOMMENDATIONS

**Recommendation 10.1** The Committee recommends that the Program Objective for Robson Hall include both preparing students for legal practice and to be critical thinkers, creative actors and ethical problem solvers attuned to the complexity of the law in its social context. The Committee notes that if these objectives are to be adopted by Faculty Council, both must be included in the law school’s mission statement.

**Recommendation 10.2** In implementing the two objectives recommended in 10.1 above, the Committee recommends that the Implementation Committee include as **Guiding Principles**, in addition to Progression, Flexibility and Student Choice, the principles of Coordination, Congruence, and Integration as defined below.
Coordination: Course offerings should not simply be functions of autonomous professorial interest nor can they be subject to the exercise of non-transparent administrative discretion. Existing courses and the addition or deletion of course offerings should take place within a coherent and rational policy framework consistent with the Program Objective.

Congruence: Congruence should be understood as instructional alignment: each course has outcomes consistent with the Learning Outcomes and aligned with the Program Objective, which in turn, is aligned with the law school’s mission Coordination and connecting teaching and assessment methods to Learning Outcomes are important to achieving congruence.\textsuperscript{129}

Integration: The integration of the knowledge, skill, and attitudinal aspects of legal education in a variety of ways. Integration may occur within or across courses. Coordination is important to achieving integration.

Revised definition of Progression: A curriculum which provides increasing complexity and sophistication in each of the three years in accordance with pedagogical best practices so that students are presented with progressively more intellectually challenging problems as their knowledge, practical judgment, self-direction and lifelong learning skills develop allowing students to experience a sense of continuous growth and achievement.\textsuperscript{130}

Recommendation 10.3 Coordination, Congruence and Integration should be implemented in a manner that encourages reflective teaching practice and supports and nourishes the pursuit of excellence in research and the values of academic freedom.

Recommendation 10.4 The Committee recommends that the Development of Professional Identity should be a Program Objective. In keeping with the Guiding Principles of Integration and Progression, all faculty should consciously model and intentionally contribute to their students’ understanding of and commitment to professional behavior and development of professional identity throughout the students’ law school experience.\textsuperscript{131}

Recommendation 10.5 The meaningful implementation of an integrated curriculum will be resource-intensive and will require, among other things: faculty support to bolster and/or revise existing programs; support and resources for the development of new pedagogical and reflective teaching practices; and support for existing and new collaborations with the profession. Accordingly, the Committee recommends that the University of Manitoba, the Faculty of Law and principal stakeholders (the profession, students and alumni) assess their commitment to a

\textsuperscript{129} formerly Cote\textsuperscript{180} in Osborne & Bass, supra note 30.
\textsuperscript{130} Excluding on language from the Stuckey, supra note 80 at 105. See also Osborne & Bass, ibid.
\textsuperscript{131} Stuckey, ibid., at 105 et seq.
truly Coordinated and Integrated legal education and, if they choose to do so, demonstrate their commitment by allocating the necessary resources and support to make it a reality.

**Recommendation 10.6** The Committee recommends that Robson Hall clearly articulate its educational goals in terms of the Program Objective, Guiding Principles and Learning Outcomes to prospective and current students, alumni, the profession and those served by its graduates.

**Recommendation 10.7** Given the extensive overlap between the competencies identified in the Stuckey Report, the Carnegie Report and the FLS Report, the Committee recommends that it include in its Learning Outcomes the baseline competencies as articulated by the FLS but add developing self-reflection and lifelong learning skills as Learning Outcomes. These are understood as helping students “learn how to learn” from experience i.e. teaching students how to analyze their performances and generalize from those experiences. The Committee recommends that these additional Learning Outcomes be developed throughout the three years of the J.D. Program. The principles of Congruence, Coordination and Progression are important to achieving this goal. The Committee notes that precisely how these additional Learning Outcomes are fully implemented will have to be determined at the implementation stage. (See also discussion in Part 12 below).

**Recommendation 10.8** Existing courses and new courses should be evaluated in light of how each course helps the school achieve the Program Objective and Learning Outcomes in a manner consistent with the Guiding Principles.
11) LITERATURE REVIEW: RESOLVING PRACTICE-READY VERSUS ACADEMIC TENSIONS

As already described, the literature on legal education and curriculum reform is vast and accordingly the following review is necessarily partial and selective. Articles that have been selected for this section have been chosen for their insight into neutralizing the perception of conflict between legal practice and legal theory and for insight into how both perspectives might be practically accommodated in a pedagogically-sound, student-centred curriculum structure.

A. "LAW AND PRACTICE – THE FALSE DICHOTOMY OF THE THEORY-PRACTICE DIVIDE"

The two principal perspectives on legal education reform, practice-oriented and theory-oriented (as described in Part X above) are often perceived to be in conflict and have been described as the so-called, "theory-practice divide". Will Rhone in his 2012 article, "Law and Practice" describes the perceived conflict as follows: "the theory-practice divide assumes that legal academics are concerned primarily with legal theory to the exclusion of legal practice and that legal practitioners are concerned primarily with legal practice to the exclusion of legal theory".

Rhone, however, states that this dichotomy is a false one and identifies that the real distinction is one between normative theory (a particular kind of legal theory) and practical lawmaking (a particular kind of legal practice).

1. Lawyers use legal theory and academics engage in legal practice

Rhone describes how legal practitioners unavoidably use legal theory every day in order to accomplish their tasks of legal problem-solving and practical law-making: i.e. theory is "just another name for thinking, for deciding, for arguing and examining one’s own beliefs and principles as well as the beliefs and principles we have been taught." Normative theory, according to Rhone, is simply a subset of legal theory that prescribes norms with which to determine the validity of legal doctrine. And, although there may be practitioners who claim to ignore legal theory, they are likely unconsciously employing methods derived from theory given that implicit or explicit normative assumptions underlie legal doctrine.

Similarly, Rhone questions whether "practising law" is indeed restricted to lawyers and judges – licensed members of the bar. He argues that within the elastic confines of "legal practice" is the concept of "practical law-making". Practical law-making involves clearly defined roles and boundaries and focuses on the law making activities of lawyers, legislators, judges and executive officials. When practical law-makers ascribe to and criticise the practice-theory divide, they are doing so only in relation to "practical law making" (the area over which they are most familiar

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139 W. Rhone, "Law and Practice" (Fall 2012) JALWJD 274 at 276.
140 Ibid, at 274-7, quoting Ashken Rossetti
141 Ibid, at 274.
and have most control) and not all “legal practice” (which is also engaged in by legal actors with less defined roles, procedures and boundaries than practical law makers). Accordingly, the conflict is not between theory and practice, but between normative theory (which seeks to answer the “why” truth question of practical law-making) and practical law making (which is governed by the rule of law and is necessarily imperfect) and furthermore, debate may even be about conflicting normative theories.116

Examples provided by Rhee to demonstrate that the theory-practice divide is an oversimplification include: legal practitioners authoring innovative legal scholarship; renowned legal academics who are also legal practitioners; legal doctrine used in practical lawmaking developed or popularized in legal scholarship; legal theory analyzing change in legal doctrine; and practical lawmaking inspiring new legal theory and academic scholarship.117

Accordingly, the strength of the “theory-practice divide” is simply a function of how it is framed: the greater the level of generality the more the two things can be said to be essentially the same whereas the greater the level of particularity, the more likely the two things will be distinguishable. Thus the existence of the theory-practice divide is a subjective choice.118

2. Alternative view: The micro-macro continuum
Rhee offers a “better” way to describe the relationship of theory to practice and describes it as a relationship along a “micro-macro continuum”. On this continuum, legal academics tend to specialize in macro law and legal practitioners tend to specialize in micro law.119 Rhee quotes a similar observation made by Cass Sunstein that “the distinction between legal theory and legal practice is at most one of degree.”120 Both legal practitioners and legal academics however, “can engage in both micro and macro law along a micro-macro legal continuum”.121

Rhee uses the analogy of economics. Microeconomics addresses the behavior of individuals whereas macroeconomics addresses the aggregate effects of economic activity. The boundary between the two areas, however, lacks consensus as does the nature of their relationship.

Similarly, the boundary between micro law and macro law is dependent on the roles (and the respective constraints on judgment and decision-making) played by the legal actors. Legal actors that practice micro law (such as lawyers and judges) are more limited than legal actors practicing macro law and are afforded less independent judgment and decision-making. Furthermore, legal actors practicing micro law (discrete law issues such as litigation, transactions, rule-making) are

116 Id., at 276-279.
117 Id., at 279-280.
118 Id., at 281-282.
119 Id. at 275.
121 Id., at 283.
accountable to third parties (clients, the public, higher courts) and are further bound by the rules of professional ethics. Note that micro law in aggregate transforms into macro law.\textsuperscript{142}

Conversely, legal actors practicing macro law (such as professors writing academic legal scholarship) can exercise greater independent judgment because they face fewer constraints such as third party accountability. Note however that "macro law is concerned with systemic issues beyond the scope of individualized decision-making."\textsuperscript{143} Accordingly, third parties can be implicated in macro law. For example, legal actors at the highest levels (national or international) deciding issues of policy are engaging in macro law and in turn are affecting third parties.

3. Perpetuating the "theory-practice divide makes Cognitive Dissonance more likely"

Rhee points out that an actor who senses hypocrisy between what she believes and what she will attempt to try to change or camouflage that hypocrisy. This tendency is called "Cognitive Dissonance".\textsuperscript{144}

When a dissonance exists between a legal actor's preferred normative theory and the reality of the actor's task (for example practical lawyermaking, scholarly commentary) the actor has three choices: obey (try to change law within the rules of the system), ignore (what many of us do) or violate legal doctrine (civil disobedience or rebellion). Both practical lawmakers (e.g. lawyers) and academicians experience cognitive dissonance. Lawyers can experience cognitive dissonance between personal ideals and the disillusioning reality of practice whereas academicians can experience cognitive dissonance between their scholarly commentary and its lack of real-world impact.\textsuperscript{145}

Rhee points to the high numbers of lawyers that ultimately leave the practice of law as evidence of cognitive dissonance for legal actors in practical lawyermaking. Rhee notes that practical micro lawyermaking (constrained decision-making) frequently requires actors to act inconsistently with their own personal values causing legal actors to feel that they lack integrity and creates a sense of dissatisfaction with the legal field.\textsuperscript{146} Similarly, legal academicians (including those writing about practical law making from a macro level), can also observe disparity between the practical lawyermaking "all around her" and her preferred normative theory.\textsuperscript{147} "Law professors want their scholarship to matter".\textsuperscript{148}

\textsuperscript{147} ibid., at 284-285.
\textsuperscript{148} ibid., at 285.
\textsuperscript{149} ibid., at 288.
\textsuperscript{145} ibid., at 288-289.
\textsuperscript{146} ibid., at 290.
\textsuperscript{147} ibid., at 291.
Again, according to Rhe, at the heart of cognitive dissonance is a conflict between the legal task (micro or macro) and the actor’s implicit or explicit preferred normative theory. Accordingly, practical lawmaking should consider normative theory and vice versa.

4. Practical lawmaking is ground zero for debates over normative theory and thus requires “balanced realism.”

Rhe points out that practical law making and its adherence to legal doctrine relies on (implicitly or explicitly) legal theories such as formalism and positivism as well as the rule of law. Indeed, practical law making is “ground zero for debates over normative theory.” According to Rhe, “[n]ormative theory about legal doctrine can be considered either supportive or critical of practical lawmaking’s rule of law assumptions” and thus plays a role in creating, critiquing, and revising legal doctrine. Both normative theory and practical lawmaking together are thus essential to solve legal problems. In other words, legal rules and their criticisms are co-dependent. It is therefore desirable to “unite” normative theory with practical lawmaking. To achieve this linkage, Rhe offers the theory of “balanced realism” which involves “balancing a skepticism of and a fidelity to legal rules.”

From the perspective of curriculum reform, a vision of law-making based on the theory of balanced realism implies that law should be taught along a micro-macro continuum in order to cease perpetuating the false theory-practice divide. The question becomes: how can this be done in a pedagogically sound, learning-centred curricular structure.

B. THE IDENTITY OF “JURIST” AND BRIDGING THE PRACTICE/ACADEMIC DIVIDE

Another model for bridging the practice/academic divide has been recently proposed by Rosalie Julier and Kate Glover. This model envisions legal education as cultivating jurists, a mission that reconceptualises the law faculty as a community of learners:

First, jurist is a general term and avoids pigeon-holing law graduates into categories such as academic, theoretician, practitioner or policy-maker. Second, it evokes a calling that transcends the practicing bar and the academy, one that incorporates contribution to society and legal thought, intellectual reflection as well as creative and critical thinking. . . . The importance of cultivating jurists is shared across graduate and undergraduate legal education. For both, there is a need to inculcate capacities for problem-solving, professionalism, judgment, intellectual curiosity and self-awareness.

Both Rhe and Julier/Glover emphasize the extent to which legal education has a number of goals that transcend the theory/practice divide.

\footnote{Rhe, supra, at 297.}

C. LEARNING ORGANIZATIONS, CAPABILITY, INNOVATION AND COMPETITIVE ADVANTAGE

When reflecting on the notions of the academic/practice divide and cognitive dissonance, it is helpful to consider learning from the perspective of the learning organization theory.

In 1990, P. Senge defined the learning organization as, "a place where people continually expand their capacity to create the results they truly desire, where collective aspiration is set free, and where people are continually learning how to act together". This definition illustrates that in an organization, a learner does not learn alone, rather, individuals learn in conjunction with each other and create a synergistic effect where the "overall learning is greater than a single individual's." 132

According to Senge, systems thinking is a cornerstone of the learning organization whereby it is critical to move from "seeing parts to seeing wholes, from seeing people as helpless reactors to seeing them as active participants in their reality, from reacting to the present to creating the future ...". The learning organization from a systems perspective would thus include not only the learner, teams of learners and the organization but also the community with which the organization interacts.

In 1993, Watkins and Marsick have identified that a critical imperative in creating and sustaining a learning organization is connecting the organization to its environment and "acknowledging the connections between the organization and its external constituencies, including its customers and the various local, national and international communities that affect the work of the organization." Recognizing the symbiotic relationship between an organization and its external constituencies, improves learning capability and capacity to respond quickly and in novel ways which in turn increases capacity to foster innovation and ultimately increases competitive advantage in the marketplace. 135

The features that have been consistently identified as features of a "healthy" learning organization include: 136

(a) openness across boundaries, including an emphasis on environmental scanning, collaboration, and competitor benchmarking,
(b) resilience or the adaptability of people and systems to respond to change,
(c) knowledge/expertise creation and sharing; and
(d) a culture, systems and structure that capture learning and reward innovation.

134 Senge, supra note 131 at 69; see also Merriam infra, at 44.
136 Merriam infra, at 45.
137 Ibid.
138 Ibid.
D. OBSERVATIONS

Observation 11.1 The relationship of theory to practice can be described as a micro-macro continuum where legal academics tend to specialize in macro law and legal practitioners tend to specialize in micro law. Both legal practitioners and legal academics, however, can engage in both micro and macro law along a micro-macro legal continuum. Micro law at one end of the spectrum principally relates to the application and development of law in the context of the traditional practice of law (law within a theoretical framework that is assumed). Macro law at the other end of the spectrum principally relates to examining and developing theories of law and intentionally assessing the application of law in context against various normative frameworks (problematizing the law).

Observation 11.2 The theory-practice divide is therefore an oversimplification: legal actors who principally engage in micro law (e.g., litigators) also utilize and rely on legal theory (implicitly or explicitly) and may engage in innovative legal scholarship. Similarly, there are legal actors who principally engage in macro law (e.g., legal academics) who may also be legal practitioners and academic legal theory frequently becomes the catalyst for change in legal doctrine. In other words, new legal theory and academic scholarship can inspire practical law-making and vice versa. Similarly, practical law-making is "ground zero" for debates over normative theory and normative theory is the catalyst for evolving practical law.

Observation 11.3 Practical micro lawmaking may require actors to act inconsistently with their own personal values causing these legal actors to feel that they lack integrity and create a sense of dissatisfaction within the legal field. Legal academics can experience internal conflict for example when they perceive that their scholarly commentary lacks real-world impact. Such conflict between the legal task (micro or macro) and the actor’s implicit or explicit preferred normative theory can be described as cognitive dissonance. Cognitive dissonance can be experienced by all legal actors.

Observation 11.4 Education from the perspective of the Learning Organization encourages a view of the learner as an individual, who learns in conjunction with others and within an organization that engages with external constituents. This in turn can improve overall learning within the organization and the organization’s capability, innovation and competitive advantage.

E. RECOMMENDATIONS

Recommendation 11.1 The Committee recommends adopting an enriched notion of legal practice which recognizes that we are preparing legal actors who will be operating at different locations on a micro-macro continuum at different times. This involves "balancing a skepticism of and a fidelity to legal rules". In formulating Learning Outcomes, explicit attention should be given to a) the development of knowledge, skills and attitudes in a transparent and deliberate manner at the micro and macro levels and b) how these levels connect to an enriched notion of legal practice. This may or may not involve reconceptualizing the current categories of doctrinal, clinical and perspective along a micro-macro continuum.

Recommendation 11.2 The Committee recommends that the faculty become more mindful of the potential to create cognitive dissonance in legal education particularly when attention is
drawn to the distinctions between theory and the traditional practice of law in a non-construcive manner. The Committee further recommends that the Faculty consider potential changes to curriculum to address this issue.
12) PEDAGOGY, LEARNING AND TEACHING CONSIDERATIONS

A. BENJAMIN BLOOM'S TAXONOMY OF EDUCATIONAL OBJECTIVES

In 1956, Benjamin Bloom, an educational psychologist at the University of Chicago, led a group of educational psychologists who developed a classification system of the levels of intellectual behaviour relevant to learning.\(^{129}\) Since then, much of the literature around education reform, including legal education reform, features "Bloom's Taxonomy" which is frequently used to identify legal education deficiencies and generate reform recommendations.

Bloom et al. noted:

[Bloom's] Taxonomy is designed to be a classification of the student behaviors which represent the intended outcomes of the educational process. It is assumed that essentially the same classes of behavior may be observed in the usual range of subject-matter content of different levels of education (elementary, high school, college), and in different schools. Thus a single set of classification should be applicable in all these circumstances.

What we are classifying in the intended behaviors of students—the ways in which individuals are to think, act or feel, as a result of participating in some unit of instruction. (Only such of those intended behaviors as are related to mental acts of thinking are included in the part of the Taxonomy developed in the handbook for the cognitive domain.)

It is recognized that the actual behaviors of the students after they have completed the unit of instruction may differ in degree as well as kind from the intended behavior specified by the objectives. That is the effects of instruction may be such that the students do not learn a given skill to any degree.

We initially limited ourselves to those objectives referred to as knowledge, intellectual abilities, and intellectual skills. (This area, which we named the cognitive domain, may also be described as including the behavior: remembering, reasoning, problem solving, concept formation, and to a limited extent creative thinking.)

The taxonomy ultimately divides educational objectives into the domains of (1) cognitive knowledge, (2) skills (psychomotor); and (3) affective/atitudes.\(^{129}\)

1. Cognitive/Knowledge Domain

Within the cognitive domain, six cognitive process categories are identified: Remembering, Understanding, Applying, Analysing, Evaluating and Creating.\(^{166}\) Each of the six categories are divided into specific cognitive processes which are described in the figure below.


\(^{166}\) ibid.
Figure 11. Blooms Taxonomy - Cognitive/Knowledge Domain

- **Problem-solving**
  - Creating
    - create, produce, invent, compose, produce, plan, design
  - Evaluating
    - judge, select, decide, justify, defend, diagnose, recommend, solve
  - Analysing
    - analyse, explain, investigate, distinguish, compare
  - Applying
    - solve, show, use, illustrate, complete, compute, classify, design
  - Understanding
    - explain, interpret, compare, discuss, predict, provide an example
  - Remembering
    - state, name, list, describe, label, relate, recall

Again, the taxonomy is designed to be a classification of the student behaviors which represent the intended outcomes of the educational process. For example, within a particular course an individual professor could break down the material into learning objectives for each class. For example:

- "At the end of this class, students should be able to..."

**Remembering**
- "Recite facts and deduce the effects of Carilli's Carboic Smoke Ball"
- "State elements of equitable estoppel as outlined by Brennan J in Watsones Stores"

**Understanding**
- "State in your own words the meaning of s.19.1 of the Québec Environmental Protection Act"

**Applying**
- "Decide whether a particular contract violates the Statute of Frauds"

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[2] Original illustration developed from [that].

[3] This list is adapted from materials prepared by Annie Rochette (UQAM) for a workshop on learning objectives in legal education (on file with Academic Innovation Committee) [Rochette].
Analyzing
- “Distinguish findings of fact from law and mixed fact and law”
- “Determine the ratio decidendi from obiter dicta the first time when reading through Carlill”

Evaluating
- “Evaluate the impact of the demise of the doctrine of privity on individuals’ willingness to enter into contracts”

Creating / Synthesizing
- “Write a judgment in response to given facts in a contract action”

The taxonomy can also be applied beyond the classes of a standalone course and can be used to establish Learning Outcomes within a curriculum of increasing complexity which requires more complex cognitive processing. For example, pre-requisite courses that desire learning outcomes of remembering, understanding and applying; advanced courses that desire learning outcomes of evaluating and creating.

2. Skills (or psychomotor) Domain

Educational objectives can also focus on skills. While Bloom’s committee identified the psychomotor domain (manual or physical skills) they did not articulate it in any great detail. The domain however is generally characterized by progressive levels of behaviors from observation to mastery and adapting of a skill. For example: ¹⁶⁹

Figure 12. Bloom's Taxonomy - Skills (or Psychomotor) Domain

1. Observing  Active mental attending of a physical event.

The learner observes a more experienced person in his/her performance of the skill. The learning is asked to observe sequences and relationships and to pay particular attention to the finished product. Observation can be supplemented by another mental activity such as reading or watching a video. Then, the learner may read about the topic first and then watch a performance of the activity.

2. Initiating  Attempted copying of a behavior.

The learner begins to acquire the rudiments of the skill, i.e. the first steps in learning a skill. The learner is observed and supervised as the learner follows directions and sequences. The learner is given direction and feedback. The total act is not important, nor is timing or coordination emphasized. The learner is conscious that he is imitating and movement is not automatic or smooth.

3. Practicing  Trying a specific activity over and over.

The entire sequence/skill is repeated over and over. All aspects of the act are performed in sequence and repeated. Conscious effort fades as the performance becomes more or less habitual. Timing and coordination are emphasized. The learner moves from being conscious of imitating towards movement that is beginning to become automatic and smooth.


The skill is perfected. A mentor or coach provides feedback and prompts minor adjustments or improvements to the performance as needed.

Examples of activities that include focus on increasing development within the psycho-motor domain include: Judge-shadowing, attending court, watching trial and advocacy videos; advocacy exercises; problem solving exercises; communication exercises; meeting; drafting using precedent; team interviewing, counselling, negotiating, mediating; legal research; information gathering, legal analysis/reasoning.

3. Attitudes (or affective) Domain

Educational objectives also relate to attitudes (ethics, values etc): the manner in which we deal with things emotionally, such as feelings, values, appreciation, enthusiasm, motivations, and attitudes.199 The five major categories are noted below from simple to complex:

An example of attitude domain articulated in language of learning outcomes: "Effective advocates, for example, must be able to attend (e.g. listen to a client's story), respond (e.g. to the needs of others), value (e.g. the role of the court as an arbiter of disputes), and organise (e.g. time and resources). In addition, graduates in law must be able to characterise and describe their behaviour with respect to a code of conduct which reflects values of the legal system." Additional examples are provided in Figure 14 below:

Figure 14. Examples Attitudes (or Affective) Domain

<table>
<thead>
<tr>
<th>Category</th>
<th>Example and Key Words (verbs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiving Phenomena:</td>
<td>Key Words: value, chooses, describes, follows, gives, holds, identifies, bases, names, points to, selects, sets, states, repeats, uses.</td>
</tr>
<tr>
<td>Awareness</td>
<td>Examples:</td>
</tr>
<tr>
<td>willingness to hear</td>
<td>• listens with respect</td>
</tr>
<tr>
<td>attention</td>
<td>• appreciates that legal determinations affect people's lives</td>
</tr>
<tr>
<td>Responding to Phenomena:</td>
<td>• becomes aware of the judicial opinions that reflect obvious political viewpoints</td>
</tr>
<tr>
<td>active participation</td>
<td>• attends and reacts to a</td>
</tr>
<tr>
<td>attends and reacts to a</td>
<td>Key Words: answers, advises, aids, examples, performs, cooperates, discusses, greets, helps, labels, performs, practices, presents, reads, recites, reports, selects, tells, writes.</td>
</tr>
</tbody>
</table>

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167 Chart and definitions extrapolated from (http://www.moodle.org/des) linked to the Bloom link; some of the examples provided are developed from materials prepared by Ancel Roodhe, supra note 162.
<table>
<thead>
<tr>
<th>Phenomenon</th>
<th>Examples</th>
<th>Key Words</th>
</tr>
</thead>
</table>
| Valuing:  | - worth or value a person attaches to a particular object, phenomenon, or behavior. 
- ranges from simple acceptance to the more complex state of commitment. 
- Valuing is based on the internalization of a set of specific values, which are expressed in the learner's overt behavior. | - demonstrates belief in the democratic process. 
- sensitive towards individual and cultural differences (values, diversity). 
- proposes a plan to social improvement and follows through with commitment. 
- informs management on matters that one feels strongly about. 
- accepts legitimacy of ADR as a means for resolving disputes. | - complete, demonstrates, differentiates, analyzes, follows, forms, initiates, invites, joins, justifies, proposes, reads, reports, selects, shares, studies, works. |

| Organization: | | |
|--------------|-----------------|
| - Organizes values into priorities by contrasting different values, resolving conflicts between them, and creating an unique value system. 
- emphasis on comparing, relating, and synthesizing values. | - recognizes need for balance between freedom and responsible behavior. 
- accepts responsibility for one's behavior. 
- explains the role of systematic planning in solving problems. 
- accepts professional ethical standards. 
- creates the plan or harmony with his/her values, interests, and beliefs. 
- prioritizes time effectively to meet the needs of the organization, family, and self. 
- reflects on the conflicts inherent in the role of the lawyer as an officer of the court and representative of the client when against his or her own ethical beliefs. | - adheres, alters, arranges, combines, compares, completes, defends, explains, formulates, generalizes, identifies, integrates, modifies, orders, organizes, proposes, refines, synthesizes. |

| Internalizing Values (characterization) | | |
|---------------------------------------|-----------------|
| - a system that controls behavior. 
- behavior is pervasive, consistent, predictable, and most important, characteristic of the learner. 
- instructional objectives are concerned with the student's general patterns of adjustment (personal, social, emotional). | - shows self-control when working independently. 
- cooperates in group activities (displays teamwork). 
- uses an objective approach to problem solving. 
- displays a professional commitment to ethical practice on a daily basis. 
- develops judgments and changes behavior in light of new evidence. 
- develops code of behavior based on ethical principles and respect for vulnerable members of society for the regulation of professional and personal life. | - acts, discriminates, displays, influences, listens, modifies, performs, practices, proposes, qualifies, questions, reviews, serves, solves, verifies. |
B. **Self-Directed Learning**

In addition to understanding generally how a student learns, educational researchers have turned their minds to the particular issue of self-directed learning including the development of models and frameworks that integrate self-directed methods of learning into a given program.

One particular model by Gerald Grow identifies how students can become increasingly self-directed in their learning. The model takes into consideration the student's stage of self-direction as well as given instructor's particular teaching style:

**Figure 15. Applying the Staged Self-Direction Model to a Course**

<table>
<thead>
<tr>
<th>Stage 4:</th>
<th>Self-directed learner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Independent projects. Student-directed discussions. Discovery learning. Instructor as expert, consultant, mentor, monitor. Examples: internship, dissertation, individual work or self-directed study-group. Creativity, Membership.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 3:</th>
<th>Involved learner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Application of material. Facilitated discussion. Teams working closely with instructor on real problems. Critical thinking. Learning strategies. Examples: Discussion facilitated by teacher as equal, collaborative or small group work.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 2:</th>
<th>Interested learner</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Stage 1:</th>
<th>Dependent learner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Introductory material. Informational lecture. Immediate correction. Examples: drills.</td>
</tr>
</tbody>
</table>

Note that "integrating self-directed learning as a way to organize learning experiences is situational in nature," i.e. a student may be self-directed in one subject and a dependent learner in another. Grow emphasizes that the role or style of the teacher must match the learning stage of the participants and that good teachers: (1) modify teaching to match the learner's stage of self-direction; and (2) allow students to become more self-directed in their learning.

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168 Ibid.

167 Merriam, supra note 152 at 118.
C. LIFE-LONG LEARNING

It is clear that the legal profession has identified the importance of developing practitioners to be life-long learners. The goals of life-long learning are myriad ranging from socio-economic survival, professional competence and capacity to engage in active citizenship.

Dunlap and Grabinger (2003) argue that preparation of students as lifelong learners involves developing the capacity for self-direction, metacognitive awareness and a disposition towards learning.171 Dunlap and Grabinger have identified the following three strategies to facilitate achievement in these capacities: problem-based learning; intentional learning environments and cognitive apprenticeships (the teaching of complex cognitive tasks through guided learning).172

B. OBSERVATIONS

Observation 12.1 Much of the literature around education reform, including legal education reform features Bloom's Taxonomy and in particular the Cognitive Knowledge Domain. It is frequently used to identify legal education deficiencies and generate reform recommendations particularly with respect to organizing curriculum delivery from perspective of student learning.

Observation 12.2 As law requires students to acquire knowledge and develop skills and attitudes beyond simple memorization or rote learning, Bloom's Taxonomy and other models can help to promote higher education goals such as analyzing, evaluating and creative problem solving.

Observation 12.3 Bloom's taxonomy can be applied to develop learning objectives within a particular course that correspond to specific cognition objectives. It can also be used to design a curriculum that integrates Learning Outcomes that progressively require more complex cognitive processing over the course of the program.

Observation 12.4 In addition to understanding the levels of learning within the three domains of knowledge, skills and attitudes and appreciating the importance of designing a curriculum responsive to these levels, students can also be guided in becoming more self-directed in their learning and in turn helps to prepare them as lifelong learners - a goal important to the legal profession. Suggested ways of achieving the goals of self-directed learning and lifelong learning are to ensure that learning and teaching styles are matched and that the curriculum provides opportunities for problem-based learning and guided learning.

E. RECOMMENDATIONS

Recommendation 12.1 The Committee recommends that Learning Outcomes be identified and articulated within each of the three domains of Bloom's Taxonomy (knowledge, skills and attitudes).

171 Ibid., at 124.
172 Ibid.
Recommendation 12.2 The Committee recommends that Self-Directed Learning be added as a skills based Learning Outcome.

Recommendation 12.3 The Committee recommends that the Implementation Committee apply Bloom's Taxonomy and other student-learning best practices to establish a curriculum that will a) enable students to engage in and achieve increasing levels of complexity in the knowledge, skills, and attitudes domains and b) encourage students' development as self-directed, self-reflective and lifelong learners as they progress through the J.D. Program.

Recommendation 12.4 The Committee recommends that the curriculum provide opportunities for problem-based learning and guided/experiential learning in order to facilitate student achievement in the capacities of self-direction, self-reflection and lifelong learning.

Recommendation 12.5 The Committee recommends that individual instructors be encouraged to match their teaching role/style with the learner's stage of self-direction in accordance with the Guiding Principle of Progression and that they be provided the support and resources to do so.

Figure 16. Learning style/ Micro-Macro Continuum

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179 Original diagram.
Recommendation 12.6 The Committee recommends that individual instructors be encouraged to match their evaluation method to identified course outcomes and that evaluation methods implemented be consistent with the Program Objective and the Guiding Principles of Progression and Congruence.
13) **CURRICULA IN OTHER CANADIAN COMMON LAW SCHOOLS**

**A. SUMMARY OF UPPER YEAR MANDATORY CURRICULUM IN CANADIAN COMMON LAW SCHOOLS**

There is considerable consistency in the first year curriculum requirements at Canadian common law schools (which always include contracts, torts, property, and usually include criminal and constitutional or public law). All common law schools in Canada require some legal research and writing in first year, although the format does vary. Certain schools leave criminal or constitutional law to upper years and instead offer an introductory course on the legal system/public law/legal institutions. A few law schools require other courses in first year including transnational law (U of T), ethics (U of T), dispute resolution (Sask/Ottawa), interviewing and counseling (Calgary).

In upper years, there is a great deal of diversity in how much and what is required. Appendix 4 is a list of required upper year courses at Canadian common law schools. The list is organized in order from most structured (most required courses) to least structured (fewest required courses). Requirements to complete a specified task (i.e., a research paper, a moot) are treated as a required course. (See also Figure 15 below for a comparison of upper year mandatory courses across Canada).
<table>
<thead>
<tr>
<th>Course</th>
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<tbody>
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<td>MSLQ</td>
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<td>M1051</td>
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<td>M1251</td>
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<td>M1502</td>
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</table>
Additionally, 90 credit hours is the norm at common law faculties in Canada for completion of the J.D. degree. As previously mentioned, the FLS requires 90 credit hours whereas Robson Hall currently requires students to complete 97 credit hours in order to graduate from the J.D. program.

It should be noted that this information was compiled in 2012 and there may have been some changes to curriculum at the common law schools in the time that has transpired since this information was gathered and curriculum reviews are underway at a number of law schools. However, we are not aware of any Canadian common law school that has implemented dramatic curriculum changes in the past year.

In assessing the impact of the FLS list of competencies on law school curricula, it is instructive to consider how some other law schools have responded in their effort to ensure their curriculum’s compliance with the list. The changes proposed by the University of Ottawa’s (English Program) Curriculum Committee are one example. The committee proposed three kinds of responses: a) making an optional course mandatory, b) amending the course descriptions of courses in which instructors currently addressed the competency to reflect this fact, and c) adding coverage of substantive material to a compulsory course and amending the course description to reflect this amendment.

B. OBSERVATIONS

Observation 13.1 90 credit hours is the norm at common law faculties in Canada.

Observation 13.2 Compliance with FLS competencies has been addressed in different manners, including the creation of standalone mandatory courses, requiring that content be addressed in existing mandatory courses and ensuring that the descriptions of courses that do address FLS competencies are amended to reflect that fact.

Observation 13.3 The Manitoba J.D. program is one of the most structured of all Canadian common law schools, having the largest number of mandatory courses in upper years. Law schools with less structured curricula include some of the larger programs (e.g. Queen’s, Osgoode Hall and University of Ottawa) as well as smaller schools, like the University of Saskatchewan’s College of Law.

C. RECOMMENDATIONS

Recommendation 13.1 The Committee recommends that the Faculty keep in mind the competitive environment for law students in Canada, particularly in the light of increasing market pressures and apparent job shortages.

Recommendation 13.2 The Committee recommends that other law schools' curricula serve at most as evidence to develop our own Program Objective, Learning Outcomes, and Guiding Principles. These objectives, outcomes and principles, once adopted, will guide curriculum development and course offerings.

Recommendation 13.3 The Committee recommends that any decision to reduce the number of credit hours for the J.D. program from 97 to 90 credits be taken only if it is consistent with the Learning Outcomes, Guiding Principles and Program Objective adopted by the Faculty.
14) NOVEL INITIATIVES - ONTARIO

A. SUMMARY

In May 2011, the Law Society of Upper Canada established an articling task force (the “task force”) to look into the rising number of unplaced articling candidates seeking access to the licensing process in Ontario. In its final report, submitted in October 2012, the task force recommended the creation of a new law practice program, comprising a skills-training program and cooperative work placement, which would provide an alternative path to licensing.176 This proposal, approved by the Law Society in November 2012, will likely commence in the 2014-2015 licensing year.177

The task force concluded that changes to the transitional training component of the licensing process, in which articling played a significant role, were necessary for the following reasons:177

- The number of applicants for articling placement, both domestically and internationally trained, is rising;
- The market for legal services is changing as is the work available for lawyers. In particular, there are insufficient articling positions in criminal and family law, despite the need for additional legal services in these areas;
- The demographics of the profession are changing and members of equality seeking groups are facing unique challenges. Candidates who have not received any legal training in Canada have no networks in the local legal profession and limited exposure to Canada’s legal process or the profession’s rules of ethics and professional responsibility;
- Fewer articling positions are available in areas for which the public requires legal services, creating a challenge to access to justice.

The task force identified five goals of transitional training:178

1. Application of defined practice and problem-solving skills through contextual or experiential learning.
2. Consideration of practice management issues, including the business of law.
3. Application of ethical and professionalism principles and professional, practical and transactional contexts.

176 Law Society of Upper Canada, Articling Task Force, Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario (October 25, 2012), online: www.lsoc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848. The estimated length of the skills training component is four months as is the duration of the cooperative work placement. Ibid, at para 127. The skills training component would be delivered by a third party provider with expertise in adult education. Ibid, at para 149.
4. Socialization from student to practitioner.

5. Introduction to systemic mentoring.

In its view, the overarching aim for transitional training is that it contribute "demonstrably and significantly to the development of competent and ethical entry-level lawyers who have practical problem-solving skills, in addition to academic and analytical ability."

According to the task force, the development of transitional training should be governed by two principles:

1. Transitional training has a valid regulatory purpose;
2. For transitional training to be a valid regulatory requirement, its design, implementation and measurement should be transparent, objective, impartial and fair.

A majority of the task force rejected the argument that transitional training, including articling, should be abolished. In its view, in light of the submissions it received, "transitional training with the five goals and two principles set out above, properly designed and delivered, has a significant role to play in enhancing competence of those who experience it" and may be more important than ever before to allow candidates for licensing who have received no training or education in Canada to adjust and prepare for the practice of law. Moreover, the task force majority considered that while articling could achieve the five goals of transitional training, articling did not preclude the development of an alternative pathway for transitional training which might be, for some candidates for licensing, more relevant and effective than available articling placements.

Significantly, the task force majority observed that Law schools contribute part of the solution to the challenges faced by law students, graduates and internationally-trained candidates for license in securing an entry-level competence:

Law schools may need to examine tuition costs more closely, as well as the numbers of students they admit and graduate. In addition, it is clear that experiential training must play an increasingly important part in the law school curriculum and this may be an area for further development. [Emphasis added.]

In the context of its discussion of the timing of transitional training, the task force majority further explored the role of a skills-based law school curriculum in meeting the goals of transitional training.

179 ibid.
180 ibid.
181 ibid., at para. 59.
182 ibid., at para. 72.
183 ibid., at para. 98.
A number of law student submissions suggested interest in the Carnegie approach because it has the potential to shorten the time it takes to be licensed, would eliminate the additional cost of post-law school training and integrate skills training into law school for every student. In contrast, however, other students noted that it would narrow the range of options available to them, for example, to study an area of law intensively over second and third year or take exchange programs in their upper years.

Law schools also raised concerns about the implications of this approach for the nature of legal education in Canada. The Task Force recognizes that like many of the other issues it raised in the Consultation Report this one is complex and nuanced. At the same time, it believes the topic is worthy of further exploration. Indeed, in the Task Force’s view, not to explore the idea further would be a missed opportunity.

Although the pilot project the Task Force is recommending will take place after law school, the Task Force is of the view that this would not and should not preclude a law school that wishes to propose a Carnegie-like law degree from seeking approval from the Federation’s Common Law Approval Committee and exploring with the Law Society whether its practical component could satisfy part or all of the transitional training requirements. In the Task Force’s view there is nothing to preclude such a proposal, properly framed so that it meets the goals of transitional training, and approved, from operating alongside the pilot project.184

A minority of the task force members recommended that articling be removed from the transitional training component of the licensing process, and criticized the majority’s proposed Law Practice Program as establishing an unfair and unworkable “two-tier” licensing process. Unsurprisingly, the minority’s report supported an increased emphasis in Canadian law schools on practical training.185

What then of law schools and the scope of legal education? As the majority notes, the Task Force considered the Carnegie Foundation Report that urged a greater role for skills-based learning in law schools. In our consultations, many law students showed interest in the Carnegie approach. The law schools themselves, however, were generally resistant to taking on more practical training, raising concerns about the implications on their curriculum and the changes to legal education that could result. Put bluntly, some of this resistance is from law schools, or faculty members, who see their role is to only teach academic courses, and not to engage in any practical training.

184 Ibid., paras. 118-119.
185 Ibid., paras. 273-276.
This is not to say we believe legal education should be up-ended - far from it. We value and respect the high quality of legal education in Canada and the intellectual rigour involved in obtaining a law degree. We have also noted that some students obtain valuable practical training within the law schools, either through course work or volunteering at student legal clinics. Some schools have taken remarkable initiatives and shown much commitment in this area. As noted earlier, Osgoode Hall Law School recently announced a “bold change” requiring every student to “be exposed to law in action through an experiential course,” and has created an Office of Experiential Education. Students completing such courses may gain far better experiential training than they may find in a co-op placement, and may justifiably question the utility of the co-op requirement.

In our view, law schools should follow Osgoode’s lead and increase opportunities for practical training and, indeed, require it. Many students, after years and years of academic study, are clamouring for practical training in the latter half of a three-year law degree. All members of the Task Force felt that the Carnegie report had merit and that this discussion should be pursued with the law schools. However, under the majority’s recommendations, there will be little incentive or pressure brought to bear on law schools to even begin this discussion. So long as the Law Society requires articling or a lengthy LPP with a co-op placement, law schools can assert that students will get practical training when they go through the licensing process. In the meantime, as noted, those who have obtained practical training will rightly question the need for a co-op requirement.

We believe that the difficult, broader discussion with law schools about professional training should take place now. Abolishing articling may well cause law schools to put more emphasis on practical training. In the absence of articling, students may increase pressure for such opportunities in law schools. We might even consider whether our accreditation of schools should require an increased component of practical training. The majority’s recommendation is, like its preservation of articling and creation of a lengthy “pilot” LPP, simply putting off for years another discussion that needs to take place now.

On November 21, 2013, the Law Society of Upper Canada announced that the English and French Law Practice Programs would be provided, respectively, by Ryerson University and the University of Ottawa. It also announced that it had approved Lakehead University’s “Integrated Practice Curriculum” (IPC), which is characterized as “another innovative option for fulfilling the experiential training component of its licensing requirements.” Lakehead University described the IPC as follows:

The curriculum at Lakehead University Faculty of Law is aimed at integrating legal skills with substantive legal knowledge. Skills are taught progressively and

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coordinated so that they build one upon the other -- course by course, year by year.

Students enrolled in the three year JD program at Lakehead will complete integrated practice training and do placements within their three year degree.

Integrating legal skill training into the JD program is exactly what was proposed by the Carnegie Report into legal education in 2007. It also mirrors the training and placements offered in other professional programs such as medicine, nursing and education.

The Faculty of Law at Lakehead intends to take full advantage of its small size by offering meaningful experiential education to all of its students.

Skills are taught at Lakehead in small classes using hands-on, face-to-face instruction.\textsuperscript{107}

The University states that its students are currently experiencing a curriculum reflective of the IPC:

In first semester, our students have written a factum in Constitutional Law, done a bail review hearing and will shortly do a sentence hearing in Criminal Law, they've written an opinion letter for Tort Law and have done a contract negotiation in legal teams for Contract Law. These skills will be built upon further in second semester and students next year can expect the same types of skill exercises.\textsuperscript{108}

\section{Observations}

\textbf{Observation 1.4.1} In both the majority and minority reports, the members of Ontario's Articling Task Force have clearly signaled their belief that law schools play an important role in ensuring the entry-level competence of licensing candidates and that experiential training must assume greater importance in legal education. Reforms to the transitional training component of the licensing process in Ontario will undoubtedly pressure Canadian law schools to ensure that their curricula place adequate emphasis on exposing their students to opportunities for experiential learning.

\textbf{Observation 1.4.2} If Ontario's experiment with a dual Law Practice Program / articling track to licensing fails, there will likely be renewed calls for the removal of articling as a requirement to licensing and increased pressure on law schools to ensure that law students receive experiential training in the course of their law school education.

\begin{thebibliography}{9}
\bibitem{107} Lakehead University, "Integrated Practice Curriculum (IPC)," online Lakehead University <https://www.lakeheadu.ca/academic/departments/law/ipc>.
\bibitem{108} Ibid.
\end{thebibliography}
Observation 14.3 Neither the majority or minority reports provide a specific description of their understanding of “experiential training” or “practical training”. The minority report suggests that “practical training” can be achieved through course work and/or through volunteering at legal clinics.

C. RECOMMENDATIONS

Recommendation 14.1 In designing a curriculum to implement the Program Objective, the Faculty should provide students with various opportunities for experiential education adapted to their learning styles. In determining which opportunities are to be made available to students, the Faculty should be particularly attentive to the Learning Outcomes of Self-Reflection and Self-directed and Lifelong learning in addition to the development of clinical skills.

Recommendation 14.2 The Faculty should consider, following the example of Lakehead University’s IPC, whether, at the point of implementation, it should expand “skills training” in all years of the J.D. Program by requiring instructors of substantive courses to offer assessments other than examinations, such as memos and written and oral advocacy exercises.

Recommendation 14.3 As an institution specializing in legal education, the Faculty should be responsible for defining, designing, implementing and evaluating appropriate experiential learning opportunities for students.
15) TECHNOLOGY

A. WHAT IS HAPPENING IN LEGAL EDUCATION?

The internet, The Cloud, Twitter, Lectures via Skype, Knowledge management systems. Curricular reform in the 21st century must at least consider the "where, when, where and how technology will play a role in the education of the law student. The students in law school today have been called the "Google generation" and a legal education that fails to integrate the technology that the students live use every day is a legal education that will miss out on the opportunity to engage students with their own tools. This generation is so computer-literate that many may not have pen or paper in class throughout their undergraduate education.

For the last 10 years, faculties of law around the globe have been experimenting with technology in an effort to determine how and if it is useful in teaching law students. PowerPoint slides were one of the first "technological advances" in the classroom, and early adopters were proud of their notes on slides, reading the dense language to the class, slide by slide. Those early experiments have advanced to the stage where technology has infiltrated most "modern" teaching and the most successful use of the technology has been made by those law teachers who have integrated the tools into their courses to enrich and enhance the learning that can take place.

Technology has helped law professors reach many more students who attend the live class. Some law instructors are making classes and/or full courses freely available as podcasts or videos and delivering them through electronic dissemination platforms such as Youtube and iTunes. There are online services like SSRN where research can be shared globally. Students have access to vast stores of primary and secondary research material from around the world and the access is generally fast and cheap.

Around the globe, universities are experimenting with different technology in teaching students. The University of Wollongong recently announced partnership with Open2study, a provider of open access classes online (otherwise known as a massive open online courses (MOOCs) where thousands of students worldwide review videotaped lectures and demonstrations and write exams, essentially delivering free online courses to the public. Harvard University offers free Harvard courses through their Harvard Extension School's Open Learning Initiative. The University of Manitoba is encouraging the development of online courses in the faculties. Is there a place for online course in legal education?

Closed information management systems are being used within law faculties for the delivery of information for individual classes. The use made of these online systems by professors varies from the limited use to post information and readings in advance of traditional classroom lectures.

109 See for example law courses on Youtube by UC Berkeley, online at: http://www.youtube.com/user/UCBerkeley;
See also, for example, law courses provided through iTunes by UC Berkeley, online at: https://itunes.apple.com/us/itunes-u/law-2723-dflc-2008-uc-berkeley/id33122465?mt=10;
online at: http://media.cour.edu/UC/UC159807;
online at: http://www.extension.harvard.edu/open-learning-initiative
to interactive discussion boards, classroom blogs, wikis or information videos to support flipped classrooms.

B. FLS ACCREDITATION REQUIREMENTS – FACE TO FACE INSTRUCTION

The existing moves to use more technology in teaching must be tempered by the fact that the Federation of Law Societies of Canada (FLS) requires that the law teaching in all accredited law schools consist primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students. This has been interpreted to mean "a minimum of two-thirds of instruction over the course of the law degree program must be face-to-face instruction conducted with the instructor and students in the same classroom." Accordingly, this FLS requirement sets a clear limit on any wholesale move to purely online legal education.

At the same time, the FLS requirement does not restrict the ability to use technology in innovative ways to provide opportunities for our students in accordance with Learning Outcomes that we could not do otherwise.

C. TECHNOLOGY IS A TOOL

Much of the literature regarding the use of technology in legal education examines the general effectiveness of different tools. The literature however also consistently concludes that the technology, no matter what it is, should only be viewed as a tool available to the legal educator. As a tool, technology is only as effective as the legal educator using it and should not be seen as an end in itself.

Technology such as sketchnote; wikis, backchannel chats, online meeting rooms, Google docs, video editing and commenting tools, online videos, interactive surveys and questionnaires, PowerPoint, Twitter, Skype, Facebook, texting, Google Drive, online dispute resolution and closed information systems such as D2L (used at the University of Manitoba) may be used effectively when used thoughtfully and deliberately and with proper preparation, training and support.

D. OBSERVATIONS

Observation 15.1 Technology in teaching is only as good as the person using it. Technology is just another tool in the hands of legal educators.

Observation 15.2 Because of FLS accreditation requirements, technology cannot fully replace face to face interaction in legal education. On the other hand, this FLS requirement does not restrict the ability to use technology in innovative ways to provide opportunities for our students in accordance with Learning Outcomes that we could not do otherwise.

10 For further detail see FLS Implementation Report, supra note 31 at 22.
Observation 15.3 Effective use of technology requires instructor commitment to putting substantial time into preparation to learn how to use the technology and then to integrate it with material to maximize its benefit and minimize the potential for "all flash and no substance". Any use also requires administration commitment to providing the technological tools, the training and sufficient support, including dedicated IT staff, updating and maintenance resources for educators.

Observation 15.4 Examples of effective use of technology in legal education abound and law school educators who are interested in its effective use are willing to share their experiences.

E. RECOMMENDATIONS

Recommendation 15.1 Recognizing that technology is a teaching tool, not all legal educators should be expected to integrate it in their teaching. The Committee recommends that given its potential to enhance teaching capacity and student learning, technology should be strategically pursued and encouraged in accordance with the Learning Outcomes, Guiding Principles, and Program Objective and that a budget be established to support such initiatives as well as for maintenance, updating and repair of the technology.

Recommendation 15.2 Online law courses or other forms of delivery of content in the curriculum should be made available but must be monitored for ongoing compliance with the FLS accreditation requirements for face to face interaction with law students as the primary method of teaching.

Recommendation 15.3 The Committee recommends that Faculty Council establish a committee of educators and support staff who have an interest in the effective use of technology in teaching with the initial goal to take an inventory of current use and conduct research into the potential use of technology in teaching at Robson Hall for sharing with the faculty generally. Establish an ongoing technology committee to explore and report annually, perhaps in a workshop format, on current technology use in legal education and in the dissemination of legal research, online course offerings and trends and advances in new technology.
16) EVIDENCE-BASED J.D. PROGRAM OBJECTIVE, GUIDING PRINCIPLES & LEARNING OUTCOMES

A. PROGRAM OBJECTIVE AND THE COMMITTEE RECOMMENDATIONS IN SUPPORT

The objective of the J.D. program at Robson Hall should be:

To deliver a rigorous and student-centered program that engages students in an enriched conception of legal practice as knowledgeable skilled problem solvers, critical thinkers and creative actors, attuned to law in context and with a developing identity as humane, ethical and reflective professionals.

Supporting Recommendations: 6.2, 10.1, 10.4, 10.7, 11.1, 14.1

- **Recommendation 6.2** The objective of developing "a more humane and broader understanding of legal institutions and legal phenomena generally through the prism of knowledge drawn from other disciplines and various perspectives" should be integrated into the Program Objective.

- **Recommendation 10.1** The Committee recommends that the Program Objective for Robson Hall include both preparing students for legal practice and to be critical thinkers and creative actors and ethical problem solvers attuned to the complexity of the law in its social context. The Committee notes that if these objectives are to be adopted by Faculty Council, both must be included in the law school's mission statement.

- **Recommendation 10.4** The Committee recommends that the Development of Professional Identity should be a Program Objective. In keeping with the Guiding Principles of Integration and Progression, all faculty should consciously model and intentionally contribute to their students' understanding of and commitment to professional behavior and development of professional identity throughout the students' law school experience.

- **Recommendation 10.7** Given the extensive overlap between the competencies identified in the Stuckey Report, the Carnegie Report and the FLS Report, the Committee recommends that it include in its Learning Outcomes the baseline competencies as articulated by the FLS but add developing self-reflection and lifelong learning skills as Learning Outcomes. These are understood as helping students "learn how to learn" from experience i.e. teaching students how to analyze their performances and generalize from those experiences. The Committee recommends that these additional Learning Outcomes be developed throughout the three years of the J.D. Program. The principles of Congruence, Coordination and Progression are important to achieving this goal. The Committee notes that precisely how these additional Learning Outcomes are fully implemented will have to be determined at the implementation stage.

- **Recommendation 11.1** The Committee recommends adopting an enriched notion of legal practice which recognizes that we are preparing legal actors who will be operating at different locations on a micro-macro continuum at different times. This involves
"balancing a skepticism of and a fidelity to legal rules". In formulating Learning Outcomes, explicit attention should be given to a) the development of knowledge, skills and attitudes in a transparent and deliberate manner at the micro and macro levels and b) how these levels connect to an enriched notion of legal practice. This may or may not involve reconceptualizing the current categories of doctrinal, clinical and perspective along a micro-macro continuum.

- Recommendation 14.1 In designing a curriculum to implement the Program Objective, the faculty should provide students with various opportunities for experiential education adapted to their learning styles. In determining which opportunities are to be made available to students, the faculty should be particularly attentive to the Learning Outcomes of Self-Reflection and Self-directed and Lifelong learning in addition to the development of clinical skills.

B. GUIDING PRINCIPLES AND THE COMMITTEE RECOMMENDATIONS IN SUPPORT

The following principles should guide curriculum development at Robson Hall:

1. Progression: The J.D. curriculum should provide increasing complexity and sophistication in each of the three years in accordance with pedagogical best practices so that students are presented with progressively more intellectually challenging problems as their knowledge, practical judgment, self-direction and lifelong learning skills develop allowing students to experience a sense of continuing growth and achievement.119

2. Flexibility: The J.D. curriculum development framework should be flexible enough to accommodate changes in legal education, legal thinking and in the legal system itself.

3. Coordination: Course offerings should not simply be a function of autonomous professorial interest nor can they be subject to the exercise of non-transparent administrative discretion. Existing courses and the addition or deletion of course offerings should take place within a coherent and rational policy framework consistent with the Program Objective.

4. Congruence: Congruence should be understood as instructional alignment: each course has outcomes consistent with the Learning Outcomes and aligned with the Program Objective, which in turn, is aligned with the law school's mission. Coordination and connecting teaching and assessment methods to Learning Outcomes are important to achieving congruence.120

119 Language from the Stuckey Report supra note 89 at 105. See also P. Osborne infra.
120 Formerly Collected under 1983 Osborne and Erns Report.
5. **Integration:** The J.D. curriculum should achieve the integration of the knowledge, skill, and attitudinal aspects of legal education in a variety of ways. Integration may occur within or across courses. Coordination is important to achieving integration.

6. **Student Choice:** The J.D. curriculum should be designed to afford students a significant measure of freedom in designing their program of study in order to (1) develop the skills of self-directed learning and in turn, lifelong learning and (2) reflect their academic preferences and professional aspirations. Like other guiding principles, student choice is important but not paramount. It must be balanced with other principles, including Progression, Flexibility, Coordination, Congruence and Integration.  

7. **Research Optimization:** Deliberate consideration of, and maximized reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

**Supporting Recommendations:** 6.1, 9.2, 9.4, 9.8, 9.9, 9.12, 10.2, 12.3

- **Recommendation 6.1** The Committee is of the view that the rationale supporting the five principles of balance, progression, cohesion, flexibility and student choice remains sound, that these principles remain relevant to curriculum reform and that they should be reconsidered by the Committee at its current review of the Robson Hall curriculum as possible Guiding Principles. The Committee notes that these principles retain significant support among faculty members.

- **Recommendation 9.2** The Committee recommends Progression and Flexibility as Guiding Principles that should be implemented throughout the program.

- **Recommendation 9.4** The Committee recommends that a mandatory core of first year courses be maintained but that its content be consistent with the Program Objective, Learning Outcomes and Guiding Principles articulated in this report.

- **Recommendation 9.8** The Committee recommends that Student Choice be identified as a Guiding Principle but that its implementation be aligned with Learning Outcomes and balanced with other Guiding Principles.

- **Recommendation 9.9** The Committee recommends that the law school’s curriculum be responsive to and take advantage of the strengths and expertise of its faculty in order to optimize, in a manner consistent with the Learning Outcomes and Program Objective, the pursuit of knowledge and research excellence. Accordingly the Committee recommends as a Guiding Principle, Research Optimization, defined as the deliberate consideration of, and maximized reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

- **Recommendation 9.12** It is the Committee’s view that optional courses and student choice are critical to the students’ development of self-directed learning skills. The Committee recommends that all optional courses as well as decisions to change a course designation from mandatory to optional be premised on the development of self-directed...
learning skills. The specific knowledge content and point of delivery of optional courses in the curriculum must be evaluated in light of how each course helps to achieve the Program Objective and Learning Outcomes in a manner consistent with Guiding Principles.

- **Recommendation 10.2** In implementing the two objectives recommended in 10.1 above, the Committee recommends that the Implementation Committee include as Guiding Principles, in addition to Progression, Flexibility and Student Choice, the principles of Coordination, Congruence, and Integration as defined below.
  - Coordination: Course offerings should not simply be functions of autonomous professional interest nor can they be subject to the exercise of non-transparent administrative discretion. Existing courses and the addition or deletion of courses offerings should take place within a coherent and rational policy framework consistent with the Program Objective.
  - Congruence: Congruence should be understood as instructional alignment; each course has outcomes consistent with the Learning Outcomes and aligned with the Program Objective, which in turn, is in alignment with the law school's mission. Coordination and connecting teaching and assessment methods to Learning Outcomes are important to achieving congruence.
  - Integration: The integration of the knowledge, skill, and attitudinal aspects of legal education in a variety of ways. Integration may occur within or across courses. Coordination is important to achieving Integration.
  - Revised definition of Progression: A curriculum which provides increasing complexity and sophistication in each of the three years in accordance with pedagogical best practices so that students are presented with progressively more intellectually challenging problems as their knowledge, practical judgment, self-direction and lifelong learning skills develop allowing students to experience a sense of continuing growth and achievement.197

- **Recommendation 12.3** The Committee recommends that the Implementation Committee apply Bloom's Taxonomy and other student-learning best practices to establish a curriculum that will a) enable students to engage in and achieve increasing levels of complexity in the knowledge, skills, and attitudes domains and b) encourage students' development as self-directed, self-reflective and lifelong learners as they progress through the J.D. Program.

**C. LEARNING OUTCOMES AND THE PROPOSED OPTION FOR THE J.D. PROGRAM**

Figure 17 as further described below sets out the AI Committee's proposal for aligning the J.D. curriculum, in pursuit of the Program Objective, to enable students to meet defined Learning Outcomes. Learning outcomes are first presented as the proposed option for the J.D. Program, followed by a list of the principal recommendations relied upon to generate the option presented.

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196 In preparing students for legal practice and to be critical thinkers and creative actors attuned to the complexity of the law in its social context.

197 Language from the Study, supra note 89 at 105. See also Osborne & Etaux, supra note 39.
1. **Overview of the Proposed J.D Program Outcomes** (Figure 17)

The AI Committee's proposal for J.D. Program Outcomes is illustrated by the above diagram, Figure 17.

The foundation for the proposed option reflects the Committee's decision to commit to defining the curriculum in the language of Learning Outcomes. Learning Outcomes are "the knowledge, skills and attitudes the students are expected to have by the time they graduate from the J.D. program." In order to achieve that goal, i.e. that every student obtains particular knowledge, skills and attitudes - the Committee agreed that there must be certain mandatory content.

The Committee took an evidence-based approach to identify what that mandatory content should be. Similarly, the Committee took an evidence-based approach to determine the optional content. It is important to note that all content whether mandatory or optional is expressed within the language of knowledge, skills and attitudes. Accordingly, a given course may cover a range of knowledge, skills and attitudes. For example, knowledge content can be delivered through the vehicle of skills and vice versa. The proposed option diagram reflects this knowledge, skills and attitudes framework.

Additionally, the J.D. Program option developed by the Committee is consistent with the Committee's identified Program Objective, namely "To deliver a rigorous and student-centered program that engages students in an enriched conception of legal practice as knowledgeable skilled problem solvers, critical thinkers and creative actors, attuned to law in context and with a developing identity as humane, ethical and reflective professionals." It is also developed with the Guiding Principles of Progressivity, Flexibility, Coordination, Integration, Student Choice, etc.
and Research Optimization\textsuperscript{359} in mind – all of which have been identified and defined through the same evidence-based approach.

\textbf{a. Mandatory Knowledge}

In Figure 17, the three areas of mandatory knowledge, skills and attitudes are represented in the colours dark blue, dark purple and red respectively. The Committee recommends that the J.D. Program require each student to complete course work that covers all these knowledge outcomes.

The mandatory knowledge content includes:

1. The mandatory knowledge competencies required by the Federation of Law Societies of Canada for the accreditation of a J.D. program. (In Figure 17, “FLS Mandatory Knowledge Content”\textsuperscript{359})

2. Mandatory knowledge that the AI Committee recommends based on evidence from Faculty Input into Curriculum Reform. (In Figure 17, “Recommended Additional Mandatory Knowledge Content”\textsuperscript{359}).

\textbf{b. Mandatory Skills}

The mandatory skills content are represented in the colour dark purple. Mandatory skills include:

1. The mandatory skills competencies required by the Federation of Law Societies of Canada for the accreditation of a J.D. program. (In Figure 17, “FLS Mandatory Skills Content”\textsuperscript{359})

2. Mandatory skills that the AI Committee recommends based on evidence from:
   a) the FLS National Entry-level Competency Profile (which lists skills needed in the first five years of practice)\textsuperscript{359} as well as input from Faculty surveys and the Faculty retreat in August 2013.\textsuperscript{359} These additional mandatory skills are skills of a more technical nature and include trial advocacy, advanced legal writing (memo and research paper), and dispute resolution negotiation (in Figure 17, “Recommended Additional Mandatory Skills Content A”); and

   b) Mandatory skills that the AI Committee recommends based on evidence from the Literature review\textsuperscript{359} as well as input from Faculty surveys and the Faculty retreat

\textsuperscript{359} For Guiding Principles definitions, see AI Committee Report, “Guiding Principles and the Committee Recommendations in Support”, Section 16.B.

\textsuperscript{359} For further detail regarding the FLS requirements and the AI Committee’s recommendation that these be adopted as mandatory requirements of the J.D. Program, please see generally AI Committee Report, “The Federation of Law Societies and the Canadian Common Law Degree”, Section 7. In particular please see: “Observations” at Section 7.7 and “Recommendations” at Section 7.9.

\textsuperscript{359} See discussion in AI Committee Report, “Faculty Input into Curriculum”, Section 9. In particular please see Recommendation 9.6.

\textsuperscript{359} Supra note 263.

\textsuperscript{359} See discussion in AI Committee Report, “Federation of Law Societies National Entry-level Competency Profile”, Section 7.E. In particular see Recommendations 7.5 and 7.6.


\textsuperscript{359} See discussion in AI Committee Report, “Selected Literature Review: Law School Curriculum Reform– General Trends”, Section 10. In particular please see Recommendations 10.3 and 10.7.
August 2013. These additional mandatory skills are *skills of a more general nature* and relate to the development of interpersonal communications, problem-solving and creative-thinking; ability to work collaboratively, critical analysis of law, and self-directed learning (in *Figure 12* "Recommended Additional Mandatory Skills Content B").

c. **Mandatory Attitudes**
The mandatory attitudes are represented in the colour dark red. Mandatory attitudes include:

1. The mandatory attitudes competencies required by the Federation of Law Societies of Canada for the accreditation of a J.D. program. (In *Figure 17*, "FLS Mandatory Attitudes")
2. Mandatory attitudes that the AI Committee recommends based on Faculty Input from August 2013, the Studley and Carnegie reports, and the pedagogical literature. These attitudes include the attitudes of self-reflection and lifelong learning.

d. **Optional Knowledge**
There are three categories of optional knowledge content which are represented in the colour light blue:

1. The first category is knowledge content that the program must deliver through its course offerings so that students *always have the option* to pursue this content during the course of their J.D. studies. The Committee recommends this content based on the FLS National Entry-Level Competency Profile and the competencies required for admission to the bar (e.g., entry to the legal profession). This knowledge content includes the Law of Evidence, Family Law and the Law of Wills and Estates. Note that the Law of Evidence and Family Law are both mandatory in the current J.D. curriculum. (In *Figure 17*, "National Entry Level Competency Profile Recommended Optional Knowledge Content A")

2. The second category is knowledge content from which students may choose course offerings in order to assist them to develop the skill of "Self-Directed Learning" and to pursue their unique academic and professional preferences. Under this second category, content on offer may vary from year to year, but there will be some content that the Committee recommends be offered every year (such as, for example, Tax and Trusts). The Committee recommends this approach based on past curriculum reform initiatives at Robson Hall, faculty input into

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309 See discussion in AI Committee Report, "Faculty Input into Curriculum", Section 9. In particular please see Recommendation 9.6.
310 See discussion in AI Committee Report 7.8.
311 See discussion in AI Committee Report, "Faculty Input on Additional Learning Outcomes from August 2013", Section 9.3.
312 See generally AI Committee Report, "Selected Literature Review: Law School Curriculum Reform: General Trends", in particular see Recommendation 10.7.
313 See AI Committee Report, "Self-directed learning", Section 12.2 and "Life-long learning", Section 12.3.
314 See AI Committee Report, "Federation of Law Societies National Entry-level Competency Profile", Section 7 E.
curriculum reform, and the literature review regarding pedagogical and learning considerations. This optional knowledge content is presented as categories premised on the general fields of law currently on offer in the J.D. program (e.g., Indigenous Law, Human Rights Law, Business Law and so forth). It allows that there may be alternative ways to categorize this knowledge content. Note also that knowledge content that is mandatory in the current J.D. program is marked with an asterisk. (In Figure 17, "Optional Knowledge Content B").

3. The third category is knowledge content that the program may deliver through its course offerings and is recommended by the Committee based on Faculty Input into Curriculum Reform and the literature review. It is a special category of knowledge content driven by the research interests and expertise of faculty members. The Committee recommends this content based on the Guiding Principle of Research Optimization and a view of optimizing the J.D. program for the pursuit of knowledge and research excellence. Examples here may include: Legal History, Law and Bioethics, Law and Popular Culture (in Figure 17, "Optional Knowledge Content C").

e. Optional Skills

This is skills content that the program may deliver through its course offerings to assist students to develop the skill of "Self-Directed Learning" and to pursue their unique academic and professional preferences. Note that under this category, skills content on offer may vary from year to year. The Committee recommends this approach based on the past curriculum reform initiatives at Robson Hall, faculty input into curriculum reform, and the literature review regarding pedagogical and learning considerations.

The optional skills content presented are examples that simply describe more advanced versions of the mandatory legal skills (e.g., advanced legal writing, practice or advanced legal writing research) or the practice of the mandatory legal skills in more complex or advanced settings (e.g., in French or with non-clients).

Note that with respect to the "Legal Practice in French" skill, the Committee recommends (Recommendation 9.13) that students always be assured of the opportunity to pursue this skill during the course of their J.D. studies. In the Committee's opinion, Robson Hall has a responsibility to ensure that all students have an opportunity to acquire the skills necessary to serve the constitutionally guaranteed language rights of members of Manitoba's francophone minority.

f. Links/Arrows

The AI Committee highlights the skill of "Self-Directed Learning" and links it to optional skills and optional knowledge. Students will develop their self-directed learning skills (mandatory

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248 See AI Committee Report, "Faculty Input into Curriculum," Section 9. In particular see Recommendation 9.9
skill requirement) through choosing and acquiring optional skills and knowledge over the course of the J.D. program. (In Figure 17, arrows from “Self-Directed Learning” to “Optional Skills” and to “Optional Knowledge Content.”)

The AI Committee also sees two-way links between optional skills and optional knowledge (in Figure 17, arrows in both directions between “Optional Skills and “Optional Knowledge Content”). The AI Committee recommends developing upper year courses that provide opportunities to integrate the optional advanced legal skills with optional knowledge content and making this clear in the course description. This allows for maximum Flexibility, Integration and Progression while supporting self-directed learning by the students. To illustrate, a Charter of Rights seminar might include, as a method of assessment, the drafting of an appeal factum, a Jurisprudence course might require a legal research paper, or a Tax course might include an opportunity to complete tax returns for low-income clients.

Principal Supporting Recommendations for the option generated: 7.1, 7.5, 9.6, 9.9, 9.12, 10.7, 12.2

- **Recommendation 7.4** To maintain its standing as an accredited law school, Robson Hall must comply with the FLS list of minimum competencies for the approved Common Law Degree (FLS J.D. Competencies). Therefore, the Committee recommends that the Faculty approach these competencies as a “baseline” for the Learning Outcomes of our J.D. program. The Committee observes that Robson Hall is therefore free, in principle, to choose to include in its curriculum planning, Learning Outcomes and/or competencies beyond those set out in the FLS J.D. Competencies list if it decides that the FLS list is under-inclusive.

- **Recommendation 7.5** The Committee notes that the FLS has decided that knowledge in the areas of the law of evidence, family law and the law of wills and estates will be required competencies for admission to the bar (i.e. entry to the legal profession). The mechanism by which these competencies in these substantive areas of law will be achieved and measured has not yet been decided. The Committee is of the view that while the FLS J.D. Competencies do not require Robson Hall to ensure that students complete course work in these respective areas, all Robson Hall students should still be given the opportunity to take courses that address these knowledge competencies during their J.D. program [...].

- **Recommendation 9.6** The Committee recommends adopting additional Learning Outcomes in the core curriculum relating to the following: creative thinking, critical analysis of law (within context and from varied perspectives), problem-solving, advocacy and dispute resolution skills, inter-personal communication skills, the ability to work collaboratively, awareness of globalization’s impact on law and awareness of indigenous legal traditions.

- **Recommendation 9.9** The Committee recommends that the law school’s curriculum be responsive to and take advantage of the strengths and expertise of its faculty in order to optimize, in a manner consistent with the Learning Outcomes and Program Objective, the pursuit of knowledge and research excellence. Accordingly the Committee recommends as a Guiding Principle, Research Optimization, defined as the deliberate consideration of, and maximized reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

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21 FLS NAS Phase 1 Reports, supra note 30 at para. 17.
• **Recommendation 9.12** It is the Committee’s view that optional courses and student choice are critical to the students’ development of self-directed learning skills. The Committee recommends that all optional courses as well as decisions to change a course designation from mandatory to optional be premised on the development of self-directed learning skills. The specific knowledge content and point of delivery of optional courses in the curriculum must be evaluated in light of how each course helps to achieve the Program Objective and Learning Outcomes in a manner consistent with Guiding Principles.

• **Recommendation 9.13** As Manitoba’s only law school, Robson Hall has a responsibility to ensure that students can acquire the skills necessary to give effect to the constitutionally guaranteed language rights of members of Manitoba’s francophone minority. The Committee acknowledges that, at this point in time, it would be unworkable to adopt as a learning outcome that all Robson Hall graduates acquire skills in effectively communicating with clients and delivering legal services in French. Accordingly, the Committee recommends that students be afforded the option of acquiring such skills in accordance with Recommendation 9.12.

• **Recommendation 10.7** Given the extensive overlap between the competencies identified in the Stockey Report, the Carnegie Report and the FLS Report, the Committee recommends that it include in its Learning Outcomes the baseline competencies as articulated by the FLS but add developing self-reflection and lifelong learning skills as Learning Outcomes. These are understood as helping students “learn how to learn” from experience i.e. teaching students how to analyze their performances and generalize from those experiences. [...]

• **Recommendation 12.2** The Committee recommends that Self-Directed Learning be added as a skills-based Learning Outcome.

D. **ADDITIONAL RECOMMENDATIONS RELATING TO GENERATING J.D. PROGRAM OPTION**

1. **Additional Global Recommendations**

**Recommendation 11.2** The Committee recommends adopting an enriched notion of legal practice which recognizes that we are preparing legal actors who will be operating at different points on the micro-macro continuum at different times. In formulating Learning Outcomes explicit attention should be given to the development of knowledge, skills and attitudes in a transparent and deliberate manner at the micro and macro levels and how these levels connect to legal practice.

The Committee recognizes that the categories of Doctrinal, Clinical and Perspective courses do not necessarily retain their substantive distinctions when set against this enriched notion of law practice.

**Recommendation 7.2** The Committee recognizes that the FLS J.D. Competencies could be implemented rigidly (for example, by requiring a different mandatory core course to cover each required competency). However, the FLS has reiterated that, except for the ethics and professionalism competency, law schools have the flexibility to address the competencies in the manner that best meets their academic objectives. Accordingly, the Committee recommends that
curriculum reform proceed in an innovative manner that fully exploits this flexibility. FLS competencies should be addressed, wherever possible, in a manner consistent with the unique curricular aspirations and principles that our Faculty chooses for itself. In practical terms, the Committee recommends the adoption of a flexible approach to achieving the FLS competencies either through standalone courses, by integrating the required knowledge and skills across several courses or by other means.

Recommendation 7.7 The FLS has distinguished between requirements of entry into bar admission programs (articulated in the Canadian Common Law degree) and requirements for entry into the profession (articulated in the National Entry-level Competency profile). The committee agrees with the CALT-CLSA Joint Committee that the law school curriculum must achieve higher education objectives of, inter alia, analytical rigour and substantial knowledge, promotion of deeper understanding of knowledge claims, and the capacity to critique these knowledge claims. However, the AI Committee believes that law schools can pursue these higher education objectives while also contributing to practice readiness through their curricula, and that its task in formulating program options is to achieve an appropriate balance between these goals.

2. Additional Content Recommendations

Recommendation 9.4 The Committee recommends that a mandatory core of first year courses be maintained but that its content be consistent with the Program Objective, Learning Outcomes and Guiding Principles articulated in this report.

Recommendation 9.7 In the event the Faculty decides to develop Learning Outcomes and a Program Objective with the aim of preparing students for practice, the Committee recommends an evidence-based approach for determining what these outcomes should be (i.e. what will students need to practice law now and in the future). In particular, the Committee recommends that attention be paid to the knowledge, skills and tasks identified by the FLS in its National Entry-level Competency Profile as required for the first five years of practice.

6. RECOMMENDATIONS TO IMPLEMENTATION COMMITTEE

1. Review of Current Curriculum and Decision-Making Considerations

Recommendation 5.1. The current and future course offerings should be reviewed in order to determine whether courses individually and collectively achieve the identified Program Objective.

Recommendation 5.2 In determining or contemplating changes to course offerings, individual class sizes, or the number of total credit hours required for the J.D. program, the Faculty's primary consideration should be the impact of such changes on and their alignment with chosen Learning Outcomes, Guiding Principles and the Program Objective.
Recommendation 5.3. The decision to offer any particular optional non-mandatory course in a given year, which may be influenced by considerations that include resources, enrollment, faculty availability and research interests, should nevertheless be made in a transparent and principled manner in alignment with the Learning Outcomes, Guiding Principles, and the Program Objective.

Recommendation 9.4 The Committee recommends that a mandatory core of first year courses be maintained but that its content be consistent with the Program Objective, Learning Outcomes and Guiding Principles articulated in this report.

Recommendation 9.7 In the event the Faculty decides to develop Learning Outcomes and a Program Objective with the aim of preparing students for practice, the Committee recommends an evidence-based approach for determining what these outcomes should be (i.e. what will students need to practice law now and in the future). In particular, the Committee recommends that attention be paid to the knowledge, skills and tasks identified by the PLS in its National Entry-level Competency Profile as required for the first five years of practice.

Recommendation 9.12 It is the Committee’s view that optional courses and student choice are critical to the students’ development of self-directed learning skills. The Committee recommends that all optional courses as well as decisions to change a course designation from mandatory to optional be premised on the development of self-directed learning skills. The specific knowledge content and point of delivery of optional courses in the curriculum must be evaluated in light of how each course helps to achieve the Program Objective and Learning Outcomes in a manner consistent with Guiding Principles.

Recommendation 10.8 Existing courses and new courses should be evaluated in light of how each course helps the school achieve the Program Objective and Learning Outcomes in a manner consistent with the Guiding Principles.

Recommendation 12.5 The Committee recommends that individual instructors be encouraged to match their teaching role/style with the learner’s stage of self-direction in accordance with the Guiding Principle of Progression and that they be provided the support and resources to do so.

Recommendation 13.3 The Committee recommends that any decision to reduce the number of credit hours for the J.D. program from 97 to 90 credits be taken only if it is consistent with the Learning Outcomes, Guiding Principles and Program Objective adopted by the Faculty.

2. Recommendations related to J.D. Program Design

Recommendation 6.3 The Committee recommends that the design of the J.D. program curriculum should be flexible enough to be able to accommodate significant changes in legal education, legal thinking and in the legal system in a timely manner. […]

Recommendation 7.1 To maintain its standing as an accredited law school, Robson Hall must comply with the PLS list of minimum competencies for the approved Common Law Degree
(FLS J.D. Competencies). Therefore, the Committee recommends that the Faculty approach these competencies as a “baseline” for the Learning Outcomes of our J.D. program. The Committee observes that Robson Hall is therefore free, in principle, to choose to include in its curriculum planning, Learning Outcomes and/or competencies beyond those set out in the FLS J.D. Competencies list if it decides that the FLS list is under-inclusive.

**Recommendation 7.2** The Committee recognizes that the FLS J.D. Competencies could be implemented rigidly (for example, by requiring a different mandatory core course to cover each required competency). However, the FLS has reiterated that, except for the ethics and professionalism competency, law schools have the flexibility to address the competencies in the manner that best meets their academic objectives. Accordingly, the Committee recommends that curriculum reform proceed in an innovative manner that fully exploits this flexibility. FLS competencies should be addressed, wherever possible, in a manner consistent with the unique curricular aspirations and principles that our Faculty chooses for itself. In practical terms, the Committee recommends the adoption of a flexible approach to achieving the FLS competencies either through standalone courses, by integrating the required knowledge and skills across several courses or by other means.

**Recommendation 7.3** The Committee recommends that, where possible, the Faculty adopt an interpretation of the FLS J.D. Competencies that aligns with identified Program Objective, Learning Outcomes and Guiding Principles.

**Recommendation 7.7** The FLS has distinguished between requirements of entry into bar admission programs (articulated in the Canadian Common Law degree) and requirements for entry into the profession (articulated in the National Entry-level Competency profile). The committee agrees with the CALT-CLSA Joint Committee that the law school curriculum must achieve higher education objectives of, *inter alia*, analytical rigour and substantial knowledge, promotion of deeper understanding of knowledge claims, and the capacity to critique these knowledge claims. However, the AI Committee believes that law schools can pursue these higher education objectives while also contributing to practice readiness through their curricula, and that its task in formulating program options is to achieve an appropriate balance between these goals.

**Recommendation 9.1** The Committee recommends that curriculum development take place within a coherent and rational policy framework animated by Guiding Principles rather than ad hoc.

**Recommendation 9.3** The Committee recommends that special attention should be given to the development of legal research and writing skills (both legal writing in a broad range of contexts and the theoretical and critical writing required for research papers) and implemented in accordance with the Guiding Principle of Progression.
Recommendation 9.4 The Committee recommends that a mandatory core of first year courses be maintained but that its content be consistent with the Program Objective, Learning Outcomes and Guiding Principles articulated in this report.

Recommendation 9.5 The Committee recommends an approach to developing knowledge-based learning outcomes that identifies appropriate levels of knowledge respecting core concepts of substantive law and that incorporates the Guiding Principle of Progression.

Recommendation 9.9 The Committee recommends that the law school’s curriculum be responsive to and take advantage of the strengths and expertise of its faculty in order to optimize, in a manner consistent with the Learning Outcomes and Program Objective, the pursuit of knowledge and research excellence. Accordingly the Committee recommends as a Guiding Principle, Research Optimization, defined as the deliberate consideration of and maximized reliance on, faculty research areas and expertise when designing and delivering a curriculum that aligns with the Program Objective and Learning Outcomes.

Recommendation 9.10 The Committee recommends that subject to directives from Faculty Council in response to future recommendations including those made by the Director of Experiential Learning, some form of experiential education be integrated across the curriculum.

Recommendation 9.11 The Committee recommends the articulation of Learning Outcomes related to core concepts of substantive law in a pedagogically-deliberate way (i.e. by identifying the appropriate level of knowledge required for each concept).

Recommendation 9.12 It is the Committee’s view that optional courses and student choice are critical to the students’ development of self-directed learning skills. The Committee recommends that all optional courses as well as decisions to change a course designation from mandatory to optional be premised on the development of self-directed learning skills. The specific knowledge content and point of delivery of optional courses in the curriculum must be evaluated in light of how each course helps to achieve the Program Objectives and Learning Outcomes in a manner consistent with Guiding Principles.

Recommendation 10.3 Coordination, Congruence and Integration should be implemented in a manner that encourages reflective teaching practice and supports and nourishes the pursuit of excellence in research and the values of academic freedom.

Recommendation 10.7 Given the extensive overlap between the competencies identified in the Stucky Report, the Carnegie Report and the FLS Report, the Committee recommends that it include in its Learning Outcomes the baseline competencies as articulated by the FLS but add developing self-reflection and lifelong learning skills as Learning Outcomes. These are understood as helping students "learn how to learn" from experience i.e. teaching students how to analyze their performances and generalize from those experiences. The Committee recommends that these additional Learning Outcomes be developed throughout the three years of the J.D. Program. The principles of Congruence, Coordination and Progression are important to
achieving this goal. The Committee notes that precisely how these additional Learning Outcomes are fully implemented will have to be determined at the implementation stage. (See also discussion in Part 12 below).

**Recommendation 11.2** The Committee recommends adopting an enriched notion of legal practice which recognizes that we are preparing legal actors who will be operating at different points on the micro-macro continuum at different times. In formulating Learning Outcomes explicit attention should be given to the development of knowledge, skills and attitudes in a transparent and deliberate manner at the micro and macro levels and how these levels connect to legal practice.

The Committee recognizes that the categories of Doctrinal, Clinical and Perspective courses do not necessarily retain their substantive distinctions when set against this enriched notion of law practice.

**Recommendation 11.2** The Committee recommends that the faculty become more mindful of the potential to create cognitive dissonance in legal education particularly when attention is drawn to the distinctions between theory and the traditional practice of law in a non-constructive manner. The Committee further recommends that the Faculty consider potential changes to curriculum to address this issue.

**Recommendation 12.1** The Committee recommends that Learning Outcomes be identified and articulated within each of the three domains of Bloom’s Taxonomy (knowledge, skills and attitudes).

**Recommendation 12.3** The Committee recommends that the implementation Committee apply Bloom’s Taxonomy and other student-learner best practices to establish a curriculum that will:

a) enable students to engage in and achieve increasing levels of complexity in the knowledge, skills, and attitudes domains and
b) encourage students’ development as self-directed, self-reflective and lifelong learners as they progress through the J.D. Program.

**Recommendation 12.4** The Committee recommends that the curriculum provide opportunities for problem-based learning and guided/experiential learning in order to facilitate student achievement in the capacities of self-direction, self-reflection and lifelong learning.

**Recommendation 12.5** The Committee recommends that individual instructors be encouraged to match their teaching style with the learner’s stage of self-direction in accordance with the Guiding Principle of Progression and that they be provided the support and resources to do so.

**Recommendation 12.6** The Committee recommends that individual instructors be encouraged to match their evaluation method to identified course outcomes and that evaluation methods implemented be consistent with the Program Objective and the Guiding Principles of Progression and Congruence.
Recommendation 13.2 The Committee recommends that other law schools' curricula serve at most as evidence to develop our own Program Objective, Learning Outcomes, and Guiding Principles. These objectives, outcomes and principles, once adopted, will guide curriculum development and course offerings.

Recommendation 14.1 In designing a curriculum to implement the Program Objective, the Faculty should provide students with various opportunities for experiential education adapted to their learning styles. In determining which opportunities are to be made available to students, the Faculty should be particularly attentive to the Learning Outcomes of Self-Reflection and Self-directed and Lifelong learning in addition to the development of clinical skills.

Recommendation 14.2 The Faculty should consider, following the example of Lakehead University's IPC, whether, at the point of implementation, it should expand "skills training" in all years of the J.D. Program by requiring instructors of substantive courses to offer assessments other than examinations, such as memos and written and oral advocacy exercises.

Recommendation 14.3 As an institution specializing in legal education, the Faculty should be responsible for defining, designing, implementing and evaluating appropriate experiential learning opportunities for students.

F. RECOMMENDATIONS FOR ADMINISTERING NEW CURRICULUM: RESOURCE CONSIDERATIONS, MONITORING, AND INFORMATION DISSEMINATION

1. Resource Considerations

Recommendation 5.2 In determining or changing course offerings, individual class sizes, or the number of total credit hours required for the J.D. program, the Faculty should consider the impact on and alignment with chosen Learning Outcomes, Guiding Principles and the Program Objective, prior to consideration of other relevant administrative factors such as budget and revenue sources.

Recommendation 5.3. The decision to offer any particular optional, non-mandatory course in a given year, which may be influenced by considerations that include resources, enrollment, faculty availability and research interests, should nevertheless be made in a transparent and principled manner in alignment with the Learning Outcomes, Guiding Principles, and the Program Objective.

Recommendation 10.5 The meaningful implementation of an integrated curriculum will be resource-intensive and will require, among other things: faculty support to bolster and/or revise existing programs; support and resources for the development of new pedagogical and reflective teaching practices; and support for existing and new collaborations with the profession. Accordingly, the Committee recommends that the University of Manitoba, the Faculty of Law and principal stakeholders (the profession, students and alumni) assess their commitment to a
truly Coordinated and Integrated legal education and, if they choose to do so, demonstrate their commitment by allocating the necessary resources and support to make it a reality.

Recommendation 15.1 Recognizing that technology is a teaching tool, not all legal educators should be expected to integrate it in their teaching. The Committee recommends that given its potential to enhance teaching capacity and student learning, technology should be strategically pursued and encouraged in accordance with the Learning Outcomes, Guiding Principles, and Program Objectives and that a budget be established to support such initiatives as well as for maintenance, updating and repair of the technology.

2. Monitoring

Recommendation 6.3 The Committee recommends that the design of the J.D. program curriculum should be flexible enough to be able to accommodate significant changes in legal education, legal thinking and in the legal system in a timely manner. The Committee further recommends the ongoing monitoring and regular reporting of any such changes to Faculty Council on an annual basis.

Recommendation 13.1 The Committee recommends that the Faculty keep in mind the competitive environment for law students in Canada, particularly in the light of increasing market pressures and apparent job shortages.

Recommendation 7.4 To maintain its standing as an accredited law school, Robson Hall must also comply with the FLS minimum academic program and learning resources requirements. The Committee recommends that the Faculty of Law monitor, carefully study and respond in a coordinated manner to any current or new Faculty and University policies or strategies that have the potential to impact the Faculty's ability to comply with these academic program and learning resources requirements.

Areas of particular note include classroom space and online course delivery. Additional areas for consideration include: law library resources, number of full time faculty and technology support. The Committee particularly notes that the University of Manitoba's new classroom usage policy under the ROSE program (designed to increase efficiencies in space usage across the Campus) is one example of a policy whose impact should be closely monitored.

Recommendation 8.1 The Committee acknowledges that all the FLS J.D. Competencies required for accreditation of the law school are met by the current curriculum. The Committee however recommends that the Faculty monitor ongoing curriculum compliance with the FLS J.D. Competencies.

Recommendation 7.6 The FLS National Entry-level Competency Profile provides validated evidence of knowledge, skills and tasks required for the first five years of practice. Accordingly, in circumstances where preparation for practice is a factor in a curricular decision (e.g. providing education in practice-oriented skills not required by the FLS J.D. Competencies), Robson Hall should consider consulting the information provided in the FLS National Entry-level Competency Profile, along with any other validated sources of such information that may become available.
Recommendation 15.2 Online law courses or other forms of delivery of content in the curriculum should be made available but must be monitored for ongoing compliance with the FLS accreditation requirements for face to face interaction with law students as the primary method of teaching.

Recommendation 15.3 The Committee recommends that Faculty Council establish a committee of educators and support staff who have an interest in the effective use of technology in teaching with the initial goal to take an inventory of current use and conduct research into the potential use of technology in teaching at Robson Hall for sharing with the faculty generally. Establish an ongoing technology committee to explore and report on annually, perhaps in a workshop format, on current technology use in legal education and in the dissemination of legal research, online course offerings and trends and advances in new technology.

3. Information Dissemination

Recommendation 7.5 [...] To promote meaningful choice within the J.D. program, the Committee further recommends that students be informed of the J.D. Competencies as well as the FLS National Entry-level Competency Profile in Robson Hall promotional material and literature prior to acceptance in the J.D. program as well as throughout the program.

Recommendation 10.6 The Committee recommends that Robson Hall clearly articulate its educational goals in terms of Program Objectives, Guiding Principles and Learning Outcomes to prospective and current students, alumni, the profession and those served by its graduates.

17) NEXT STEPS

This report is being presented to Faculty Council on March 13, 2014. The Academic Innovation Committee proposes that key stakeholders (students, faculty, alumni, and members of the legal profession) be provided with an opportunity to give feedback on the proposed J.D. program option (and supporting recommendations and information contained in this report) before the proposed J.D. program option comes to Faculty Council for a decision in Fall 2014. Once a J.D. program option is approved by Faculty Council, the Academic Innovation Committee recommends that an Implementation Committee be struck for Phase 2 of this process.
18) APPENDICES

APPENDIX 1: TERMS OF REFERENCE FOR ACADEMIC INNOVATION WORKING GROUP

Mandate
The mandate of the working group is to investigate, review, and elaborate objectives for the JD program ("Program Objectives") and subsequently options for the content and structure of the JD academic program to implement those objectives. The working group will also outline the implications of adopting each of the options it proposes.

This working group has been created to build upon the ideas articulated by our colleagues at numerous engaged conversations over the years (including at the Faculty Retreat in August 2011) and the work begun by the 2010-2011 Curriculum Mapping Committee. The working group will seek input from all faculty members during the development of Program Objectives options.

The members of the working group are Debra Partners and Mary Shariff (Co-Chairs), Phil Osborne, Gerald Heckman, and unused Casa.

This review of the JD academic program is very timely given the proposed "Approved Canadian Law Degree" that may be implemented by law societies across the country by as early as the end of this year, to be effective for the class graduating in 2015. It is also timely given that the University mandated Undergraduate Program Review for the faculty is scheduled to occur in the near future. The working group will review and take into consideration relevant materials including those previously provided to the Curriculum Mapping Committee, reports from the professor, information about our existing program, and research on teaching and learning in legal education.

Any additional articles, reports or other materials that ought to be included in the review by the working group should be directed to the attention of Debra Partners or Mary Shariff. A student researcher will be available to the working group to assist in collecting relevant scholarly material or information from other law faculties in Canada and abroad.

Proposed Timelines:
2011-2012: Identification of possible JD Program Objectives.
2012-2013: Approval by Faculty Council of JD Program Objectives and subsequent work by the Working Group to develop and propose options for implementing Program Objectives in the JD Academic Program.
2013-2014: Approval by Faculty Council of preferred option for implementing JD Program Objectives and subsequent work by the Working Group and/or others to develop content and structure of the JD Academic Program.
2014+: Implementation of content and structure of the JD Academic Program based on Program Objective.
**APPENDIX 2: FLS COMMON LAW DEGREE IMPLEMENTATION COMMITTEE FINAL REPORT (2011), FLS REQUIREMENTS (EXCERPTS)**

For ease of understanding, the Task Force's competency requirements are set out in TABLE A, with the Committee's recommendations for clarification, elaboration or direction set out in an accompanying box. The ethics and professionalism competency is dealt with separately following the Table.

### TABLE A

**Competency Requirements**

1. **Skills Competencies**
   - The applicant must have demonstrated the following competencies:
     1.1 **Problem-Solving**
        - In solving legal problems, the applicant must have demonstrated the ability to:
          - identify relevant facts;
          - identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute;
          - analyze the results of research;
          - apply the law to the facts and identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.

        No clarification necessary.

     1.2 **Legal Research**
        - The applicant must have demonstrated the ability to:
          - identify legal issues;
          - select sources and methods and conduct legal research relevant to Canadian law;
          - use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
          - identify, interpret and apply results of research and study effectively communicate the results of research.

        No clarification necessary.
1.3 Oral and Written Legal Communication

The applicant must have demonstrated the ability to:

- communicate clearly in the English or French language;
- identify the purpose of the proposed communication;
- use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and
- effectively formulate and present well-reasoned and accurate legal arguments, analyses, advice or submissions.

No clarification necessary.

2. Ethics and Professionalism

The applicant must have demonstrated an awareness and understanding of the ethical requirements for the practice of law in Canada, including:

a. the duty to communicate with civility;

b. the ability to identify and address ethical dilemmas in a legal context;

c. familiarity with the general principles of ethics and professionalism applying to the practice of law in Canada, including those related to,

- situations that give rise to ethical problems;

- the fiduciary nature of the lawyer’s relationship with the client;

- conflicts of interest;

- duties to the administration of justice;

- duties relating to confidentiality and disclosure;

- an awareness of the importance of professionalism in dealing with clients, other counsel, judges, court staff and members of the public; and

- the importance and value of serving and promoting the public interest in the administration of justice.

Discussed separately below.
3. Substantive Legal Knowledge

The applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge.

The Task Force recommendations specify minimum competencies required for entry to law school admission programs. The Task Force report recognizes that legal education in Canada is an enriched learning environment and agrees that it provides both a liberal legal education and a professional education. Law school students begin to "think like lawyers," examine law critically and address deficiencies in legal systems and principles. The competencies that are included in the national requirement are therefore situated in this broader context.

This preamble to the section 3 competencies echoes Dean's' descriptions of how their school offers "a sufficiently comprehensive program of study" to enable graduates to "obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge." Each Dean will be asked to address this in the annual report to the Approval Committee.

In the course of this program of study the applicant must have demonstrated a general understanding of the core legal concepts applicable to the practice of law in Canada, including as a minimum the following areas:

3.1 Foundations of Law

The applicant must have an understanding of the foundations of law, including:

- principles of common law and equity;

This competency could be addressed as part of courses in private law. It is open to schools to address this competency in other ways.

- the process of statutory construction and analysis; and

This competency could be addressed by any number of courses that are statute based (e.g., taxation, corporate, administrative, criminal, civil procedure, family, labour, etc.). It is open to schools to address this competency in other ways.

- the administration of the law in Canada.

This competency is directed at understanding the organization of the courts and tribunals in Canada, including appeal processes.

3.2 Public Law of Canada

The applicant must have an understanding of the core principles of public law in Canada, including:

The modifier "core" before "principles" is unnecessary and will not appear on the annual report to the Approval Committee law schools complete.

This section 3.2 requirement is fully addressed by the enumerated competencies below. All competencies under section 3.2 are intended to address public law in Canada.
the constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles and the rights of Aboriginal peoples of Canada;

The part of this competency requirement that states "the constitutional law of Canada, including, the rights of Aboriginal peoples of Canada" could be addressed in a number of ways, including, for example, in a constitutional law course or as part of a property law course that addresses Aboriginal rights. It is open to schools to address this competency in other ways.

- Canadian criminal law, and

No clarification necessary.

- the principles of Canadian administrative law

This competency contemplates the principles of Canadian administrative law. This competency could be addressed through a stand-alone administrative law course or through a course in which the subject matter is grounded in an administrative tribunal (e.g., labour/employment law, environmental law). It is open to schools to address this competency in other ways.

3.3 Private Law Principles

The applicant must demonstrate an understanding of the foundational legal principles that apply to private relationships, including,

- contracts, torts and property law, and

No clarification necessary.

- legal and fiduciary concepts in commercial relationships.

This competency contemplates a conceptual overview of business organizations, including fiduciary relationships in a commercial context. It is open to schools to address this competency through a course in corporate law or in other ways.

Recommendation 1. The commentary set out in TABLE A regarding the competency requirements be approved.
Ethics and Professionalism Competency

The Task Force report places particular emphasis on the need for law school graduates who seek entry to law society admission programs to have an understanding of ethics and professionalism. It notes, 

Ethics and professionalism lie at the core of the profession. The profession is both praised for adherence to ethical codes of conduct and vilified for egregious failures. Increasing evidence of external scrutiny of the profession in this area and internal professional debates about ethical failures point to the need for each lawyer to understand and reflect on the issues. In the Task Force's view, the earlier in a lawyer's education that medication in ethics and professionalism begins, the better.

The Task Force believes that more, not less, should be done in this area and that legal educators and law societies together should be identifying ways to ensure that law students, applicants for admission, and lawyers engage in focused and frequent discussion of the issues. To ensure that law students receive this early, directed exposure, the Task Force believes a stand-alone course is essential.

In addition to setting out the components of the ethics and professionalism competency, the Task Force report recommends that this competency be acquired in a course dedicated to the subject and addressing the competencies. This is in contrast to the approach to all the other competencies in the national requirement in which the report recommends that it be left to law schools to determine how their students meet them. As the Task Force indicates, "ethics and professionalism lie at the core of the profession."

The unique approach the Task Force takes to this competency led the Committee to consult, as described above in the 'background' section to this report, to ensure that the Task Force's recommendations respecting ethics and professionalism are implemented as effectively as possible, in keeping with both the spirit and letter of the recommendations.

The Committee received invaluable input and assistance respecting both the implementation of the stand-alone course requirement, which will be discussed later in this report, and on the language of the ethics and professionalism competency, which is discussed here.

In the course of its consultations the following points were drawn to the Committee's attention.
The way in which the actual competency is stated in the Task Force report is more narrowly focused than the rest of the Task Force report on the topic appears to have intended. This is because the components of the competency, as originally worded, focus mainly on issues addressed in Rules of Professional Conduct, rather than also reflecting the greater Task Force goal that students understand and reflect on broader ethical and professionalism issues.

- Presenting the competencies as a "list" of components could have the unintended effect of freezing curricula at a point in time, making it clear that the list is not exhaustive would minimize the concern.

- The Task Force’s intent to recognize the importance of ethics and professionalism would be more effectively addressed if the implementation approach more accurately reflects that intent.

The Committee agrees with these points. While maintaining all the components of the ethics and professionalism competency set out in the Task Force’s report, the Committee has added additional language that reflects the broader philosophy underlying the Task Force’s reasons for placing special emphasis on professionalism and ethics in its report.

The ethics and professionalism competency described below is the point of departure for those who teach this subject. Its components do not constitute an exhaustive list that limits them to teaching only those components. It sets out the required minimum coverage only. The proposed wording for the ethics and professionalism competency is set out in TABLE B.
### TABLE B

**Ethics and Professionalism Competency**

**Ethics and Professionalism**

The applicant must have demonstrated an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context, which includes:

1. **Knowledge of**
   - the relevant legislation, regulations, rules of professional conduct and common or case law and general principles of ethics and professionalism applying to the practice of law in Canada. This includes familiarity with,
     1. circumstances that give rise to ethical problems;
     2. the fiduciary nature of the lawyer's relationship with the client;
     3. conflicts of interest;
     4. the administration of justice;
     5. duties relating to confidentiality, lawyer-client privilege and disclosure;
     6. the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and the public; and
     7. the importance and value of serving and promoting the public interest in the administration of justice;
   - the nature and scope of a lawyer's duties including to clients, the courts, other legal professionals, law societies, and the public;
   - the range of legal responses to unethical conduct and professional incompetence; and
   - the different models concerning the roles of lawyers, the legal profession, and the legal system, including their role in the securing access to justice.

2. **Skills to**
   - Identify and make informed and reasoned decisions about ethical problems in practice; and
   - Identify and engage in critical thinking about ethical issues in legal practice.
APPENDIX 3 ACADEMIC INNOVATION COMMITTEE INFORMATION GATHERING FORM No. 1

ACADEMIC INNOVATION COMMITTEE INFORMATION GATHERING FORM No. 1

Name of Course: ________________________________
Course Number: ________________________________ [to be filled in by Office]
Instructor: ____________________________________

PART A: COURSE DESCRIPTION
Instructions / Comments: Please tick appropriate boxes and fill in blanks where indicated:

A.1 Mandatory or Not Mandatory
   Mandatory ☐ Not Mandatory ☐

A.2 Doctrinal or Perspective
   Doctrinal ☐ Perspective ☐ Clinical ☐

A.3 Year Available
   Year 1 ☐ Year 2 ☐ Year 3 ☐

A.4 Term
   Fall ☐ Winter ☐

A.5 Credit Hours
   1 Hr ☐ 2 Hrs ☐ 3 Hrs ☐ 4 Hrs ☐ 5 Hrs ☐ 6 Hrs ☐

A.6 Methods of Evaluation
   Written Exam ☐
   Final ☐
   Midterm ☐
   Research Paper ☐
   Written Assignment(s) ☐
   Presentation ☐
   Participation ☐
   Other: ____________________________ ☐

A.7 Mode of Delivery of Course Content (100%)

In Classroom:
   Face-to-Face in same classroom ☐
   [(lecture or discussion) ☐
   Film or Video ☐
   Other: ____________________________ ☐

In a Clinical Setting:
   Client Contact ☐
   Simulation ☐
   Meeting ☐

Not in Classroom:
   Field Trip ☐
   Live online (streaming or chat) ☐
   Pre-recorded Webcast or Podcast ☐
   Film or Video ☐
   Other: ____________________________ ☐

Other: ____________________________ ☐

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### A.8 Teaching e-tools

<table>
<thead>
<tr>
<th>Powerpoint</th>
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<tbody>
<tr>
<td>Prezi</td>
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<td>I-Clicker</td>
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<td>Forum</td>
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<td>Other:</td>
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### B. Foundational Concepts Covered

- Principles of Common Law (e.g. precedent, stare decisis, ratio decidendi etc.)
- Principles of Equity (please provide brief explanation): 

- Organization of Courts and Appeals
- Administrative Tribunals and Appeals
- Statutory Construction and Analysis
- Statutory Interpretation
  - 0-10%
  - 10%-25%
  - 25%-50%
  - 50%-100%
- Please provide brief explanation (for example coverage of doctrines and principles of interpretation versus application and analysis):

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<thead>
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<th>B.2 Private or Public Law: Private</th>
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<th>Both</th>
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<th>B.3 Private</th>
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<td>Tort</td>
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<td>Property</td>
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<td>Commercial</td>
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<td>Legal Relationships</td>
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<td>Fiduciary Relationships</td>
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<td>Other</td>
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<td>Remedies</td>
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<th>B.4 Public / Constitutional</th>
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<tbody>
<tr>
<td>Federation</td>
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<tr>
<td>Distribution of Powers</td>
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</table>
PART C: SKILL DEVELOPMENT
Instructions / Comments: Please tick all boxes that apply.

C.1 Problem Solving: Students assessed on ability to:
- Identify facts
- Apply law to facts
- Analyse legal research
- Identify alternative solutions
- Evaluate appropriateness of alternative solutions

C.2 Legal Research: Students assessed on ability to:
- Identify legal issues
- Determine "select" sources and design research methodology
- Conduct research
- Analyse legal issues (legal reasoning and argument using cases and statutes)
- Identify, interpret and apply results of research
- Communicate results written or oral

C.3 Oral and Written Legal Communication:
Students assessed on ability to:
- Communicate written in English
- Communicate orally in English
- Communicate written in French
- Communicate orally in French
- Formulate and present well-reasoned and accurate legal argument, analysis, advice or submissions (written or oral)
- Correctness and suitability of grammar, spelling and language

PART D: COURSE SYLLABUS
- Please attach copy of most recent course syllabus
Appendix 4: Mandatory Upper Year Courses at Canadian Common Law Schools

Manitoba (12, including 2 where there is choice)
- Evidence
- Administrative Law
- Corporations
- Civil Procedure
- Introduction to Advocacy
- Legal Negotiation
- Trusts
- Family Law
- Income Tax Law and Policy
- Perspectives Courses (one in each of 2nd and 3rd year)
- Legal Profession and Professional Responsibility

Moncton (10) * French language program
- Appellate Advocacy
- Administrative Law
- Tax Law
- Trusts
- Civil Procedure
- Evidence
- Fundamental Rights
- Legal Research Paper
- Professional Responsibility

New Brunswick (9, including 4 where there is choice)
- Civil Procedure
- Commercial Law
- Evidence
- Administrative Law
- Business Organization
- Professional Conduct
- Conflict of Laws
- One course from each of the compulsory areas: Perspectives and Theories, Property Rights, Regulating Relationships, Completion of Scholarly Paper

McGill (9, including 3 where there is choice) *4 year program – combined civil/common law degree
Second Year
- Advanced Civil Law
- Obligations
- Advanced Common Law
- Obligations
- Common Law
- Property
- Legal Ethics, Professionalism and Advocacy

Second, Third or Fourth Year
- Criminal Law
- Judicial Institutions and Civil Procedure
- Minimum writing assignment
- Minimum 3 credits in complementary human rights and social diversity courses
- At least 4.5 credits from civil law "basket" and 4.5 credits from common law "basket"

*Information compiled by RH J.D. student, Davina Stutfield, for the AL Committee in Spring 2002 based on publicly available information. A full report of all mandatory courses is available from the AL Committee.
Alberta (8, including 1 where there is choice)
- Administrative Law
- Corporations Law
- Civil Procedure
- Evidence
- Conflict of Laws
- Professional Responsibility
- Jurisprudence OR Legal History
- Completion of written work assignment

Calgary (8, including 2 where there is choice)
- Administrative Law
- Evidence
- Ethical Lawyering
- Dispute Resolution II: Negotiation and Mediation
- Legal Research
- Dispute Resolution III: Adjudication (3rd year required)
- Upper year writing requirement
- International Requirement

Western (6, including 3 where there is choice)
- Corporate Law
- Civil Procedure
- At least 3 of Administrative Law, Evidence, Income Tax, Public International Law and Trusts
- Completion of written essay

Windsor (8, including 3 where there is choice)
- Civil Procedure
- Torts I
- Completion of Research Paper worth 50% or more in course
- Completion of 1 Legal Perspectives Course
- Completion of 1 Transactional Law Course

UBC (5 with choice for all)
- One course from each of 5 clusters:
  - Public Regulation
  - Private Regulation
  - Procedure
  - Law and Society Studies
  - Legal Research & Writing

Ottawa (4, including 2 where there is choice)
- Civil Procedure
- Constitutional Law II
- Major Paper Requirement
- Advocacy course chosen from the following options: Moot court course, Competitive moot, Trial Advocacy, Alternative Dispute Resolution, Interviewing, Counselling, Negotiation, Clinic-based course

Dalhousie (5)
- Civil Procedure
- Constitutional Law
- The Legal Profession and Professional Responsibility
Saskatchewan (4 with choice for all)
Major paper written in second year
Seminar taken in either second or third year

Victoria (3, including 1 with choice)
Civil Procedure with Drafting
Evidence
Completion of Major Research Paper

Toronto (3 with choice for all)
Completion of a Monograph
Successful completion of an international/comparative/transnational course for a minimum 3 credit hours
Successful completion of a seminar course in either 2nd or 3rd year

Osgoode (2 with choice for all)
Upper year research and writing requirement
As of incoming class of 2012 - completion of the new practical/experiential learning requirement

Queen's (1)
Civil Procedure
### APPENDIX 5: CONDENSED LIST OF ISSUES RAISED BY FACULTY (2012), ORGANIZED BY FREQUENCY

**Summary of Responses to Faculty Interviews**

Note: The numbers indicated reflect items raised by different faculty members. Classification was dependent on how items were articulated. Similar concepts were grouped under the same headings.

**Strengths**
- The fundamental philosophy of current curriculum (11)
- Mandatory core (8)
- Some mandatory core courses in upper years (3)
- Small class size (4)
- Good teachers in first year core (3)
- Variety of elective courses (2)
- Mandatory administration (2)
- Concentrations initiative (1)
- Clinical Programs (1)
- Curriculum connects to placement of students in law jobs (2)
- Consistent with needs of the practice (1)
- Meeting EXS competencies (2)
- Relationship with Manitoba Law Society (1)

**Weaknesses**
- Students research and writing skills (8)
- Failure to promote progression and lack of coherence (7)
- Restrictions on student choice (too much mandatory) (6)
- Loss of clinical/experiential strengths (5)
- Understanding legal systems / legal theory (5)
- Too many sessions/semester reliance on seminars in core / too many seminars in upper year doctrinal courses (5)
- Evaluation problems (exams and research papers) (4)
- Faculty to faculty and dean to faculty, faculty to student communication problems (3)
- Gaps in coverage in substantive commercial/private law areas (3)
- Concentrations Initiative (3)
- Ad hoc adding of courses (3)
- Too many mandatory courses in upper years (3)
- Not following fundamental philosophy of Osborne/Faul report (2)
- Maclean's ranking (2)
- Few courses with focus on Manitoba needs in law (agriculture, construction, nat law and mining, land titles) (2)
- Lack of coordination of needs (1)
- Law enrolment courses are an unaffordable luxury (1)
- Grading curve (1)
- Lack of priority on faculty research (1)
- Artifical distinctions between perspective and doctrinal (1)
- Lack of integrated learning, substantive with skills (1)
- Not committed to creating lawyers (1)
- Coverage of international law (1)
- No simulation course (1)
- Students' opinions are ignored (1)
- Statutory interpretation (1)
- Understanding of common law versus equity (1)
- Over-focus on litigation (1)
- Third year ethics too late (1)
- 2 credit hour courses should be 3 credit hours (1)
- Not enough opportunities for collaborative work among students (1)

Priorities
- Improve student legal research and writing skills (7)
- Expand clinical offerings and integration of experiential learning (6)
- Implement progression (6)
- Remove mandatory upper years (5)
- Maintain mandatory curriculum (4)
- Improve delivery of legal systems and critical thinking and legal theory (4)
- Introduce LLM or Professional Ethics content and delivery (4)
- Development of program objectives agree on philosophy (4)
- Hire a Director of Clinical Education (4)
- Improve clarity of concentrations strategy (3)
- Increase曼东 bias (2)
- Revise mandatory core (2)
- Implement continuing discussion re. curriculum (2)
- Remember we create lawyers (2)
- Increase ADR content and skills development opportunities (2)
- Increase choice for students (2)
- Increase sensitivity to student demands (1)
- Achieve FLS competencies through range of courses (1)
- Increase flexibility and willingness of teachers to teach different courses (1)
- Increase communication between Dean and faculty (1)
- Less reliance on seminars (1)
- Increase variety in electives (1)
- Increase focus on Faculty Research (1)
- Improve Evaluation methods (1)
- Integrate FLS competencies (1)
- Increase and improve Legal History content (1)
- Increase and improve International Law content (1)
- Cultivate Professional Excellence (1)
- Address od her adding of core courses (1)

Add ons to FLS objectives
• See Calgary's description of competencies (1)
• Deliver more than just FLS because too reductionist (2)
• Lawyer skills and practice management (1)
• More critical thinking, more legal theory, better legal systems (3)
• More legal history (2)
• Legal research and writing (3)
• Every course should have a writing component (7)
• Language Skills (French) (1)
• Collaborative work (1)
• Expand clinical to upper years (1)
• Encourage self-learning and reflective learning (1)
• Social context and public interest (2)
• Communication and real-world soft people skills (2)
• International law (1)
APPENDIX 6: COMPETENCIES AND LEARNING OUTCOMES CHART AND
SUMMARY OF DISCUSSION FROM FACULTY RETREAT AUGUST
2013

1. FACULTY RETREAT: DISCUSSION OF ROBSON HALL PROGRAM OUTCOMES

Purpose of Discussion:
The AI Committee seeks to consider faculty input in the Committee’s formulation of a list of recommended
learning outcomes for the overall J.D. Program. As Robson Hall must deliver the FLS J.D. Competencies to retain
accreditation, the Committee is focusing on learning outcomes that are additional to the FLS J.D. Competencies.

Objectives of Discussion:
A. At the end of the discussion, the participants will have knowledge of:
   1) the “best practice” of identifying goals of a legal education program in the form of learning outcomes;
   2) the FLS J.D. Competencies and the requirement to address them within the learning outcomes for the
      Robson Hall J.D. Program; and
   3) the potential additional learning outcomes for the Robson Hall J.D. Program (i.e., additional to the FLS J.D.
      Competencies) that the AI Committee has identified to date from faculty interviews and from its initial
      selective literature review.

B. At the end of the discussion, the participants will have, together, reflected on and shared their views
   concerning desired learning outcomes for the J.D. Program, for consideration by the AI Committee.

Format of Discussion:
• All Committee members will present their work to date and answer questions. (See Agenda)

• Participants will review the attached chart which lists the FLS J.D. Competencies alongside Additional Learning
  Outcomes for the J.D. Program identified to date from the selective literature it has reviewed and from faculty
  interviews.

• By area, an AI Committee member will facilitate a discussion of which Additional Learning Outcomes should
  be kept on/taken off and added to the list as well the reasons for doing so. This may happen in small groups
  for the substantive areas (with reporting back/discussion in the large group). Otherwise, we will stay in the
  large group.

• The facilitator will encourage participants to frame their suggestions as learning outcomes, consider how to
  deal with potential areas of overlap between FLS and Additional Learning Outcomes identified, and identify
  any written information (e.g., article, study, curriculum from another law school, etc.) for the AI Committee to
  review that supports keeping, adding or deleting a particular learning outcome.
2. NOTES FROM SMALL GROUP DISCUSSION AND REPORT BACK REGARDING LEARNING OUTCOMES OF THE POBSON HALL JD PROGRAM (Based on Handout)

Academic Innovation Committee Session

A. Substantive Law Outcomes:

First Group to Report:
- depends on focus of program
- if it is to prepare for practice, need evidence
- globalization is important. Overall need basic awareness of public int'l law and also private int'l law
- where are the jobs going to be? With an ageing population will likely important, real estate less so.
- The goal of the JD program is the key to answering this question

Second Group:
- prefer to talk about knowing "core concepts" of substantive law not the entire area
- nuance is important in level of knowledge required: need to consider the appropriate level of knowledge for each concept (e.g., Awareness, understanding)
- take labour and intellectual property off the list, not required
- keep remedies if understood as outcomes of legal problems/disputes
- put globalization comparative int'l law together with being able to critique law within context and keep them
- keep family and tax
- keep trust concepts as are deeper than property and they are important in Aboriginal context
- add Indigenous legal systems, but awareness needed only
- keep legal history
- keep "procedural fairness/fair procedures" (replaces civil procedure)
- keep "assessment of facts" (core evidence concepts)
- Others are likely "outgrowths" in that students may develop a special interest (land titles and possibly wills)

Third Group:
- noted that the level of knowledge is an open question, may differ depending on concept
- liked core concepts idea as well
- would put jurisprudence with critical understanding of law from various perspectives and would give examples of other perspectives such as feminist legal theory and critical race theory
- would include in course related to a critical understanding of the law within social context concepts such as interdisciplinary approaches, legal history, policy/law making context
- would group the impact of globalization with international/comparative law
- add privacy law to list as it is pervasive
- concepts relating to wills, intellectual property, and trust law can be addressed to the degree necessary within the outcomes related to property law
- labour and employment should not be a required outcome but should be addressed to the degree it is relevant in other areas
- remedies should also be able to be covered in other outcomes and should include restitution
- family law was difficult to decide as it has big implications in some areas (corporate/commercial) but there do not appear to be universal concepts students need to take away
- some core concepts of law and evidence will also be necessary as they are pervasive but could be addressed within other courses.
Further general comments from larger group:
- The future of law is a significant issue here.
- With so much DIY and online law and legal tools what will lawyers be doing and what can we give our students beyond what is already out there?

B. Skills Outcomes:

First Group to Report: (Groups stayed some but reported back in different order)
- Importance of language—need to be exposed to nuances of differing for all contexts (contracts, statutory interpretation, etc.)
- Also need to learn legal writing that is appropriate for forward looking problem solving such as a contract
- Otherwise would keep most of the skills in the lists other than practice management and providing legal services in French
- Though some aspects of practice management may be incorporated in LPR as appropriate and students need to understand the role of the French version of statutory language in statutory interpretation
- Students need knowledge and skill development in context/real world settings (internships, projects)
- Project management is a possible add-on with students developing beginning skills and awareness through their coursework. This is a whole discipline unto itself, however, so cannot be taught comprehensively
- Working collaboratively important not just within own team but in adversarial contexts (e.g., with opposing counsel) and with other professionals.

Second Group:
- Approached this question by asking what weaknesses are there in the students and in legal practice and how to address these.
- There is a general lack of problem solving skills, relating to communication skills gaps and also to failing to understand that there is no right answer necessarily and that problem solving is a process.
- There is a difference between legal writing and academic writing; academic involves finding a gap in the knowledge or theory and saying something original about this.
- Academic writing requires students to dig more deeply and to know when they have researched sufficiently.
- We need to teach research methods.
- We need to teach students how to question the status quo.
- This means teaching creatively.
- They also need to learn how to know when they need a more complex or creative understanding/knowledge of analysis (make links between research paper/memo/see reform).
- Would also address some aspects of practice management in professionalism (i.e., through the professionalism lens).

Third Group:
- Students need to be aware of how to self-reflect.
- Also need to be able to identify key processes for achieving results.
- Keep in legal problem solving but take out "work with clients.
- Delete practice management.
- Add working with facts from raw materials (e.g., documents and other materials from real life).
- Collaborative skills important.
- Change the research paper bullet: break out legal synthesis and citation (add reference to legal databases and other legal sources) and take out "original.
- To 1.3 add contracts and policies.
- Also add interviewing and negotiation skills as are not in LLS.
C. Outcomes re: Attitudes/Attributes (Ethics/Professionalism):

First Group:
- practice management should be addressed here in the context of how much work can a lawyer reasonably take on.

Second Group:
- get rid of first bullet
- change self-reflection one to "be aware of the importance of self-reflection"
- cultural awareness and competence are important
- need awareness of how to self-study

Third Group:
- focused on being "infused with" professional attitudes and attributes
- would like to provide opportunities for students to adopt the Code of Professional Conduct in their lives as students and not just when they become professionals.
- for example treat professors as professional colleagues, avoid gossip
- also important for students to learn the importance of reputation management and the importance of their reputation in their interactions with professionals and the community

Note that Faculty discussion above references the following chart which was distributed by the Academic Innovation Committee in advance of the Faculty Retreat.

### 1: Substantive Legal Knowledge of Core Legal Concepts

<table>
<thead>
<tr>
<th>Title</th>
<th>Demonstrated understanding in accordance with the Guiding Principle, above of:</th>
<th>Additional Learning Outcomes</th>
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</table>
| 3.1. Foundations of Law | a. Principles of common law and equity  
  b. Process of statutory construction and analysis  
  c. Administration of law in Canada (organization of courts and tribunals and appeal processes) | 1. A critical analysis of law from various perspectives (F/G)  
  2. A critical analysis of law within social context: (F/H)  
  3. The following areas of law: (F) |
| 3.2. Public Law | a. Constitutional law of Canada, including:  
  i. federalism  
  ii. division of powers  
  iii. Charter  
  b. international law, transnational law  
  c. wills  
  d. labour  
  e. restitution |
### 2: SKILLS-BASED COMPETENCIES

<table>
<thead>
<tr>
<th>FLJ:JD Competencies</th>
<th>Additional Learning Outcomes</th>
</tr>
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<tbody>
<tr>
<td><strong>1.1 Problem Solving</strong></td>
<td><strong>Students should be able to... upon completing their J.D. Program.</strong></td>
</tr>
<tr>
<td>a. Identify relevant facts</td>
<td>1. Solve legal problems effectively and responsibly, including the ability to:</td>
</tr>
<tr>
<td>b. Identify legal, practical, and policy issues and conduct the necessary research arising from those;</td>
<td>2. Work with clients to identify their objectives, identify and evaluate the merits and risks of their options, and advise on solutions;</td>
</tr>
<tr>
<td>c. Analyze research results;</td>
<td>3. Plan and implement strategies to progress cases and transactions expeditiously, with propriety. (J)</td>
</tr>
<tr>
<td>d. Apply the law to the facts; and</td>
<td>2. Working collaboratively. (F)</td>
</tr>
<tr>
<td>e. Identify and evaluate appropriateness of alternatives for resolution of the issue or dispute.</td>
<td>3. Practice Management (F)</td>
</tr>
</tbody>
</table>

**1.2 Legal Research**

- a. Identify legal issues;
- b. Determine sources and research methodology;
- c. Conduct research relevant to Canadian law;
- d. Analyze legal issues using

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*Excerpted from Stockley, supra note 89 at page 59*
### 3. ETHICS AND PROFESSIONALISM (ATTITUDES)

<table>
<thead>
<tr>
<th>FLSJ.D. Competencies&lt;sup&gt;224&lt;/sup&gt;</th>
<th>Additional Learning Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demonstrate awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context, including:</td>
<td>Students should have the following attributes upon completing their J.D. Program.</td>
</tr>
</tbody>
</table>

#### Knowledge (of relevant legislation, regulations, rules of professional conduct, and common case law and general principles of ethics and professionalism.)

- Familiarity with:
  1. Circumstances that give rise to ethical problems;
  2. Ethical nature of lawyer's relationship with client;
  3. Conflicts of interest;
  4. The administration of justice;
  5. Duties relating to confidentiality, lawyer-client privilege, and disclosure;
  6. Importance of professionalism, including civility and integrity, dealing with clients, counsel, judges, court...

- Conduct practice-oriented legal research, analysis and writing clearly and effectively (e.g. legal memorandum, legal brief, opinion letter etc.) (F/I)
- Demonstrate basic interpersonal communication skills and the ability to match communication to setting and relationship (F)
- Deliver legal services in French (F)

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<sup>224</sup> The FLS imposes additional requirements that there be a minimum of 24 hours of instruction in Ethics and Professionalism, a formal assessment, and a standalone course or dedicated units.
<table>
<thead>
<tr>
<th>applying to the practice of law in Canada including:</th>
<th>requirements of a legal professional. These include (among others): a commitment to justice; respect for the rule of law; honor, integrity, fair play, truthfulness, and candor; sensitivity and effectiveness with diverse clients and colleagues; and fostering quality of life.</th>
</tr>
</thead>
<tbody>
<tr>
<td>vii. Importance and value of serving and promoting public interest in the administration of justice;</td>
<td></td>
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<tr>
<td>b. Nature and scope of duties to clients, courts, other legal professionals, law societies, public;</td>
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<tr>
<td>c. Range of legal responses to unethical conduct and incompetence; and</td>
<td></td>
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<tr>
<td>d. Different models concerning role of lawyers, legal profession, legal system, securing access to justice.</td>
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<tr>
<td>Skills to:</td>
<td></td>
</tr>
<tr>
<td>a. Identify and make informed and reasoned decisions about ethical problems in practice/legal context</td>
<td></td>
</tr>
<tr>
<td>b. Identify and engage in critical thinking about ethical issues in legal practice</td>
<td></td>
</tr>
</tbody>
</table>

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396 Summary of discussion of professionalism by Stueckley et al in Chapter 2. There is some overlap here with the ELS requirements: Duty to communicate with civility, Ability to identify ethical dilemmas, Awareness and Understanding of ethical requirements. The distinction in the literature we wish to highlight is the student’s ongoing development of the attitudes of a professional and an understanding of his or her identity as a legal professional.