

Advice for Prospective Law Students

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5 August 2006

Howdy! I'm the pre-law adviser for the Department of Philosophy and Humanities at The University of Texas at Arlington (UTA). Thanks for visiting this site; I hope you find it useful. Before you read my answers to the frequently asked questions, you may want to examine my academic background.¹

My Academic Background. I earned my baccalaureate degree in political science at The University of Michigan-Flint in 1979. My minor fields of study were economics and history. I attended law school at Wayne State University in Detroit, earning both an M.A. degree (in history) and a J.D. degree in 1983. While in law school, I clerked for Lakeshore Legal Services, Macomb Division, and later for a small firm (Kutinsky, Davey & Solomon). Before attending graduate school (in philosophy) at The University of Arizona, where I earned M.A. and Ph.D. degrees, I sat for (and passed) the Michigan Bar Examination and was admitted to the Michigan bar (both state and federal courts). I had no intention of practicing law at the time, but I wanted to keep my options open. Later, while in graduate school in Tucson, I passed the Arizona Bar Examination, was admitted to the bar (again, both state and federal courts), and practiced law (for Dunscomb and Shepherd, P.C.). After receiving my Ph.D. degree (with a dissertation on constitutional interpretation), I began teaching philosophy, first at Texas A&M University and then, beginning in August 1989, at UTA, where I am now a tenured associate professor. I teach courses in philosophy of law and several other subjects, mostly in axiology (a fancy name for value theory). Many of my publications are on legal topics (or topics that have a legal dimension), such as suicide, right-to-farm statutes, relevance,

¹ My answers to the frequently asked questions, and all of the advice that I give herein, reflect my own opinions, which were formed over a period of many years. These opinions are not necessarily shared by my philosophical colleagues, by members of other UTA departments (such as History and Political Science), or by practicing lawyers. My only motive in offering this advice is to help you achieve your goals, one of which, I assume, is to become a licensed attorney. If you have a question that is not answered on this site, feel free to ask it by e-mail. Who knows? Your question, and my answer, may show up on this page!

defamation, capital punishment, rape, and the nature of law (legal theory).

1. Is a particular major required (or recommended) by law schools? No. Students find this hard to believe, but it's true. My fellow law students at Wayne State University majored in fields as diverse as business, English, art history, philosophy, political science, history, and biology. What law schools want (talk to them; read their catalogs) is intelligent, highly motivated, analytical, critical, articulate students. No particular substantive knowledge or background is either required or presupposed. Of course, it helps if one knows the history of our legal and political systems, as well as basic economic principles, but this sort of knowledge is typically acquired in government and civics courses at both the high school and the college level. Law schools want students with a broad base of knowledge—a classical liberal education. There is plenty of time for you to specialize once you get to law school. Before then, and even during the early stages of legal study, you should be a generalist. Think of your undergraduate education as the foundation for the edifice (career) you hope to build. The broader and sturdier the foundation, the more secure (and valuable) the resulting structure.

2. Since I have to major in something, what is best? The best preparation for law school (as well as for the practice of law) is philosophy. I say that without the slightest hesitation—and remember, I studied political science, economics, history, and philosophy as well as law. The reason philosophy is best is obvious (once you think about it). The skills needed by law students and attorneys—careful analysis of texts, sensitivity to vagueness and ambiguity (these differ!), extraction of principles from cases (i.e., imposing order on chaos), argumentation (often for propositions that one does not personally accept), criticism of arguments made by others, and the articulation of difficult concepts—are *precisely* those that are inculcated and refined in the study of philosophy. Both philosophers and lawyers are trained to analyze, argue, and criticize—not to mention speak and write. Thus, the skills that one acquires in one area readily transfer to the other area. This affinity has not gone unnoticed by others, even by those who have no particular love of, and indeed some disdain for, philosophy and philosophers.

Here is federal appellate judge (and former law professor) Richard A. Posner:

[T]he methods of analytic philosophy and of legal reasoning—the making of careful distinctions and definitions, the determination of logical consistency through the construction and examination of hypothetical cases, the bringing of buried assumptions to the surface, the breaking up of a problem into manageable components, the meticulous exploration of the implications of an opponent’s arguments—are mainly the same. (Richard A. Posner, *Overcoming Law* [Cambridge and London: Harvard University Press, 1995], 9) (Note that Posner is discussing *analytic* philosophy. That is my concern as well. I make no claim about the usefulness of Continental [or other types of] philosophy to the study of law. Note also that Posner is not necessarily *endorsing* philosophy, as I am.)

Since you have to major in something in order to earn your baccalaureate degree, philosophy is the natural choice.

3. What if I can’t, or decide not to, major in philosophy? Are there alternatives? Yes. You can *minor* in philosophy. See the UTA Undergraduate Catalog for the requirements for a minor, which are less stringent than those for a major. You might major in English, history, political science, business, or criminal justice, for example, and minor in philosophy. The more philosophy courses you take, the better off you will be in law school and in the practice of law.

4. What if I can’t, or decide not to, minor in philosophy? Am I out of luck? In that case, you should take as many philosophy courses (and read as much philosophy) as you can. If you have time, you may wish to participate in the activities of the UTA Philosophy Club, which meets regularly on campus to discuss and debate issues. (Contact the department for details.)

5. Which philosophy courses should I take? Any course we offer at UTA will serve you well. Two courses, however, are devoted to

the development of analytical, critical, and argumentative skills: PHIL 1301 (Critical Thinking) and PHIL 2311 (Logic). These courses may seem to have nothing to do with law, but that misses the point. The point is that they will teach you *skills* that will benefit you in law school (and later). The same is true of other philosophy courses you take. A course in the history of philosophy will have little or no direct bearing on anything that is said or done in law school, but by studying the arguments and analyses of philosophers, even those long dead, one learns how to detect fallacies (errors in reasoning), argue for claims, solve intellectual problems, and make useful distinctions. Think skills, not substance. Even my Philosophy of Law course (PHIL 3320), which is offered approximately every other year, has no direct bearing on law. We read judicial opinions and law-related essays, to be sure, but the aim is to develop philosophical *skills* rather than to convey legal *knowledge*. As I like to put it, “If you learn any law in here, it will be by accident.” Another course you may wish to consider, and that I recommend, is LATN 1441 (Level I Latin). Many commonly used legal terms, such as “*res ipsa loquitur*” (the thing speaks for itself), “*habeas corpus*” (you have the body), and “*feræ naturæ*” (of a wild nature or disposition) are of Latin origin, as you can see by consulting a legal dictionary.

6. If I major or minor in philosophy, won't I lack substantive legal knowledge that is necessary for law school? No. One of the gravest misconceptions of nonlawyers, including some who hope to *become* lawyers, is that law school teaches substantive knowledge, such as what the law *is* in a particular field (e.g., bankruptcy, taxation, corporate law, or domestic relations). While some substantive knowledge is undoubtedly conveyed in law-school courses, for the most part the objectives are to teach you (a) the origin, structure, and functions of law; (b) the basic legal principles and procedures of law; and (c) how to go about answering legal questions (i.e., solving legal problems). Like philosophy courses, law-school courses are skill-oriented rather than knowledge-oriented.² Law school teaches you to think like a lawyer. If and when you study for a bar examination, you will learn (perhaps “absorb” is a better word) substantive (“black-letter”) law. Many law-

² Put differently, the knowledge that you acquire in law-school courses is knowledge-*how* rather than knowledge-*that*.

yers learn particular bodies of law gradually, once they become licensed and begin to practice. To use a computer analogy, law school formats the mind to prepare it to receive, store, and process data. The data are entered during study for the bar examination, during law practice, and during continuing-legal-education courses (which are mandatory in many states).

7. What if I change my mind and don't go to law school? Will majoring in philosophy hurt my career? Until now, I have assumed that you intend to become a licensed attorney. If you have doubts about this, then you need to consider the alternative employment opportunities for a philosophy major. There is, as you know, no "philosophical career," except as an academic, and the job prospects are dim even there. It seems to me, however, that the skills one acquires during the study of philosophy are useful in any number of areas, ranging from business to politics to religion to art to science to academia to the military. Of course, not every employer sees it this way. Philosophy has a reputation (undeserved!) for being irrelevant, arcane, and (merely) speculative. The prevailing image of the philosopher is that of a bearded guru sitting atop a mountain, dispensing advice to all comers. But as I have been at pains to point out, philosophy inculcates valuable—hence, marketable—cognitive skills, skills that, when supplemented by specialized knowledge, are all the more valuable. A recent UTA philosophy graduate says that his philosophical skills surprised and impressed his employer. I am not saying, nor could I, that you will get the job you seek by majoring in philosophy. I am saying that the skills you acquire in your philosophy courses will stand you in good stead *whatever you choose to do with yourself*. And let us not forget the ideal of the learned, multifaceted person. I assume that this ideal has some weight in your thinking and some motivational force for you. For more information about career opportunities for philosophy majors (and minors), please contact the departmental adviser, Harry P. Reeder.

8. Is there anything else you recommend as preparation for law school? Yes. Read as much as you can about the United States Supreme Court (or other courts), about particular areas of law (such as divorce, abortion, privacy, capital punishment, antitrust,

and homosexual rights), about great attorneys and jurists, and about the history of our legal and political systems (as well as how they are related). The more you know, and the more sharply honed your reasoning and analytical skills, the better you will do in law school. If you want to know what law school is like, read Scott Turow's *One L* (1977), which is about the first year at Harvard Law School. Turow, a practicing attorney, is the author of several best-selling novels: *Presumed Innocent* (1987), *The Burden of Proof* (1990), *Pleading Guilty* (1993), *The Laws of Our Fathers* (1996), *Personal Injuries* (1999), and *Reversible Errors* (2002). Many law schools model themselves on Harvard. Many law professors were either trained at Harvard or taught by someone who was trained at Harvard. If you are interested in doing background reading in law, you may want a copy of a reading bibliography published by the *Michigan Law Review*. I have a copy of the bibliography in my office (303 Carlisle Hall). (If I am not there when you arrive, please ask the secretary to make you a copy.) I also have other materials that may be of interest, such as an essay by a Harvard Law School professor (Duncan Kennedy) on the moral dangers of law school (yes, *moral* dangers). Kennedy says (and I agree) that you should go into law with your eyes wide open or not at all. It can be a noble or a nightmarish experience, or anything in between, depending on your aptitude, your personality, your values, your work habits, your career objectives, and your other interests and activities. Judge Posner, whom I quoted earlier, believes that recent changes in the practice of law have dire "psychological consequences":

Harder work, even when well remunerated, greater uncertainty of tenure, and the inevitably bureaucratic "feel" of practicing law in a huge organization all reduce job satisfaction. Many lawyers claim with evident sincerity not to enjoy the practice of law as much as they once did. Many say they wouldn't have gone to law school had they known what the practice of law would become. The increasingly competitive character of the legal-services market makes lawyers feel like hucksters rather than the proud professionals they once were, and brings forward to positions of leadership in the profession persons whose talents, for example for marketing ("rainmaking"),

are those of competitive business rather than of professionalism. Gone are the joys of artisanality and the security of the guild. (Posner, *Overcoming Law*, 67-8)

Like so many other institutions and professions in our society, law is becoming commercialized. Keep this in mind as you formulate your career goals. Another thing you should keep in mind is that law school is *difficult*. The first year of study is oppressive, in large part because you are learning a new language (the language of the law). The first year of law school is a weeding-out period. Only the most disciplined and determined will survive it, and those who survive it will be transformed for life. You will have no time during your first year of legal study (and not much time afterward) for recreation or entertainment, much less for working. I will repeat to you what my first-year law-school class was told during orientation: “If you are in a relationship, don’t get out of it during law school. If you are not in a relationship, don’t get into one during law school.” This should tell you everything you need to know about the rigors (some would say the *inhumanity*) of law school.

9. Should I take a preparation course for the Law School Admission Test (LSAT)? There is no single (or simple) answer to this question. It is like asking, “Should I join a marathon-training program to prepare for the marathon I hope to run?” It is unlikely that the training program will *hurt* you, in the sense of causing you to run *slower* than you otherwise would. How much it *helps* you, however, depends on how much you put into it. Whether it is *worth* the cost in time and effort depends on how important it is for you to go faster. If it is very important for you to run a four-hour marathon, say, then you may be willing to pay a great deal to increase the likelihood of doing so. It may be that you could, physically, run a three-hour marathon but are not willing to pay the price. Going that fast may require a training regimen that alters your diet, disrupts your sleep pattern, forces you to give up certain valued social activities, even drains your savings account (to pay for the training program). When students ask me whether a particular LSAT preparation course is “worth it,” therefore, I cannot answer. Judgments of worthiness are value judgments; ultimately, they must be made by the person whose values are at stake. What I *can* say is that

whether it is worth it depends on (a) what resources you have at your disposal, (b) how important it is for you to get a certain score on the exam, and (c) how likely it is that the course will help you get the score you need. I will also say this: I taught an LSAT preparation course several times for The University of Arizona while I was a graduate student there. The techniques I taught in that course—which, to my knowledge, are typical—were quite valuable.

10. Will you write a letter of recommendation for me if and when I apply to law schools? If you have taken at least one of my courses, I will write a letter for you. Whether it is a letter of *commendation* or a letter of *condemnation* depends on (a) how you do in my course and (b) what sort of character you have displayed. (Missing class will doom you. It shows lack of discipline. Without discipline, you will not succeed in law school.) I have written letters of recommendation for several dozen students during my 18 years as a professor. Many of these letters—probably the vast majority of them—were for students applying to law school (as opposed to graduate school, medical school, scholarships, and the like). I am proud to say that at least fifteen of my students are licensed attorneys. I am proud of this because, to the best of my knowledge, they are making the world a better place (by my standards). I ask only one thing in return for writing the letter: that you keep me abreast of your progress. Good luck!

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"Making Docile Lawyers: An Essay on the Pacification of Law Students." *Harvard Law Review* 111 (May 1998): 2027-44.

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