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## Law Deans' "Open Letter" Tells of Student Skills Training Plan

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# Law Deans' 'Open Letter' Tells of Student Skills Training Plan

**Dear Members of the Indiana Bar:**

To the best of our knowledge this is the first time that the four deans, representing Indiana's four law schools, have ever jointly authored an open letter to the members of the Indiana Bar. The reason for this unusual action is simple: we need the help of the state's lawyers now more than any time in our history.

A bill which is of very great importance to legal education has been introduced in the Indiana Senate. As a member of the Indiana Bar we feel you should be informed about that bill, and the serious deficiencies in legal education which gave rise to it.

**BACKGROUND:** For the past several years it has been apparent to both legal educators and the practicing bar that most recent law school graduates have received insufficient training in the basic professional skills of legal writing, research, drafting, interviewing, counseling, negotiating and trial and appellate advocacy.

In response to increasingly harsh criticism, in 1978 the American Bar Association's Section on Legal Education and Admission to the Bar appointed a

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*(The concept of the skills training described in this letter has been endorsed by the Board of Managers of the Indiana State Bar Association. However, differing views are held regarding the plan's means of finance.*

*The Editor)*

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blue ribbon task force on "Lawyer Competency: The Role of the Law Schools." That ABA task force's recommendations (the *Cramton Report*) were released August 31, 1979, specifically urging extensive additions to the program of instruction offered at accredited law schools. That report and a number of other recent studies, including the Devitt Commission Report commissioned by the Federal Courts, do *not* call for any lessening of emphasis on areas of traditional strength, but rather call for instructional additions that will require substantially increased resources. All skills training improvement proposals recognize that professional skills can only be taught in the advanced law curriculum in small sections with individualized instruction at very substantially increased costs.

The demands being made nationally on legal education have not gone unnoticed in Indiana. At the urging of former Governor George N. Craig, the president of the State Board of Law Examiners, and the Indiana State Bar Association Committee on Legal Education and Admissions to the Bar, headed by Judge Paul H. Buchanan, Jr., the deans of the four Indiana Law Schools — Indiana University's Schools of Law at Bloomington and Indianapolis, Notre Dame and Valparaiso — have engaged in intensive discussions on these problems for nearly 18 months.

To begin, the problem appeared to us to be deceptively simple: recent law school graduates seem not to have acquired all the skills of their profession while in law school. This is particularly trouble-

some for those who pass directly into solo or small office practice. There seems little question that the schools do an excellent job preparing their students in the *substance* of the law, which constitutes the bulk of the subject matter considered in law school. However, with a few exceptions, *techniques* of law practice presently do not constitute a major part of law school curricula. The Deans of the four Indiana law schools believe that this shortcoming should and can be corrected. Each of the Indiana schools on its own has been seeking ways to address that problem and we have now joined together to try to find common solutions.

In this common effort we have found the message of the *Cramton Report* a clarion call: In order for law schools to teach skills and to contribute effectively to the development of lawyer competency, substantial new sources of funding will have to be found and developed. The *Cramton Report* suggests that the cost of providing skills training would require at least an additional one-third of the present total budget of each law school — roughly \$1,000 (in 1978 dollars) additional per law student per year. At several law schools, the costs of lawyer competency programs (available to only a small percentage of each law school class) average \$3,000 per student. As we mentioned earlier, these higher costs are produced by the combination of costly equipment, small class size and close, individual faculty supervision necessary for skills instruction — costs which are well known in the other professional schools. Public

support for medical, dental, and veterinary education is five to seven times as great per student as it is for legal education. Lawyer training has been funded at shockingly low levels as compared with sister professions. Finally, we must note that this comes at a time when our law schools and parent universities face serious resource deficiencies in operating present programs of instruction.

Out of these discussions, the proposal contained in the bill now before the State Legislature was born.

**PROPOSAL:** The Senate Bill is both imaginative and, better yet, feasible. It would create an entity entitled the "Consortium of Indiana Law Schools." The Consortium would be empowered to seek and distribute funding to the four schools on a grant formula tied to each school's enrollment. The funding each school would receive would be restricted to use only for training in the lawyering skills mentioned above; such funds would not be available to support the traditional academic programs of the four schools. But providing funding would not be the only purpose of the Consortium.

An inevitable consequence of the lack of funding for skills training is that the teaching skills and techniques required by that training have been explored seriously only in the last few years. Skills training is presently an area of most intense experimentation in the pedagogy of legal education. A Consortium of the four Indiana law schools is perfectly suited to carry out this important work. The Consortium could maintain a small full-time, and larger consulting, staff. In this way, we can avoid duplication and achieve economies of scale in research, program design, evaluation, and support without sacrificing the autonomy of the participating institutions or the individuality of the programs they provide.

The Consortium will have a relatively simple structure. It will be established as a non-profit corporation by the participant schools. It will be governed by a 10-member Board of Directors, to include the deans of the four law schools, and representatives of the bench, bar, Legislature and public. Day to day activities of the Consortium will be administered by an executive director, who will act both as a liaison to funding agencies and as coordinator of support services for the schools.

**FUNDING:** The creation of the Skills Training Consortium is only the first step. Our proposal recommends funding of the Consortium through legislation of three types: (1) a completely new chapter of the higher education title which establishes a fund, (2) amendments to existing statutes which impose filing fees in certain civil cases and costs in certain criminal cases, and (3) amendments to existing statutes which impose a fee on litigants demanding jury trials. The proposed legislation creates the fund, authorizes the payment of costs and fees into the state treasury, earmarks the monies paid into the treasury and authorizes the Consortium to manage the fund by conducting research, providing support programs and by providing direct grants to the law schools for skills training.

The premise of this legislation is that persons utilizing the services of the bar — those who would benefit directly from the improvement of lawyer skills — should provide the primary means of support. We view it, at least in part, as a form of "user fee" for the consumers of certain types of legal services. There is no tax burden to the general public. Also, the "user fee" feature of the proposed law seems best applied at the filing stage of litigation. Since several fees and charges are presently taxed and collected at this filing stage, a fee for legal skills training

fits the existing system. Furthermore, given projections as to state revenues any request for funding from general revenue sources would be a futile endeavor. While any increase in costs in an inflationary economy is troublesome, we feel the requests in the bill are modest when measured against the unmet need now faced by legal education.

If the proposed bill is passed, and assuming funding of the magnitude suggested is obtained, the Indiana law schools should move to the forefront of legal education nationally. No law school in this country is now meeting its responsibilities in the area of "skills training," as the term is used here. If we succeed in this endeavor we believe we shall have stimulated a quantum leap in the quality of legal education.

We need your help, your understanding and your support.

Very truly yours,

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