**INTERVIEW WITH HON. RANDALL T. SHEPARD[[1]](#footnote-1)**

Interview by Justin Fiorilli

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JF: Mr. Shepard, I am extremely honored to be speaking with you today on the topic of legal education reform, which is something that is extremely relevant not only to those in the legal profession, but also to many outside of it as well. To begin with, how did you become involved with the Task Force and what has been its mission under your leadership?

RS: The Task Force was created by the leadership of the American Bar Association in response to a series of very adverse events in legal education, including rising tuition, rising debt, fewer jobs for graduates, and fewer applicants for law schools. It was this collection of developments, which led the Board of the American Bar Association to create this Task Force in 2012. The President of the American Bar Association, William Robinson, asked me to chair the Task Force and that’s how I came to be a part of it.

JF: The Task Force published a draft report on September 20, 2013, which sets out a range of recommendations and conclusions. What did the Task Force draw upon when it made these conclusions and what is the status of their implementation today?

RS: The Task Force proceeded in a way that is standard for such exercises. We held a series of public meetings and dispersed requests for observations and proposals from law faculty, practicing lawyers, and bar associations. We also held a series of hearings and reached out to various groups that have particular stakes in legal education, like law deans and organizations of higher education. We posted this draft report and requested further comment on it. We expect that the final report is not far away at all. It will be issued within a week or two.

JF: In its current form, do you believe that legal education is a worthy investment for prospective law students?

RS: I believe that going to law school is still very a promising investment for society and for students. It’s not the guaranteed path to a financial return that it was twenty or thirty years ago, but there are plenty of reasons why it makes very good sense for people to go to law school. In non-financial terms, I still regard it as a very rewarding experience.

JF: The Task Force concluded that the current system for financing legal education harms both students and society. Why is that the case and how can it be solved?

RS: The second part is a lot more complicated than the first. One of the most dramatic changes that has occurred in the last twenty years is that most financial aid today is merit-based whereas it used to be that most aid was need-based. This means that the students who apply with the highest test scores and the highest GPAs pay relatively little to attend law school. The students with applications that are relatively weaker, but still strong enough to be admitted, pay full price and borrow the money to attend. This is not the way it was twenty years ago. It’s a very serious and adverse change in the system. The solution to this problem is incredibly complicated and there are number of moving parts. We recommended that the ABA commission a follow-up Task Force with the sole purpose of addressing this problem.

JF: Aside from recommending that the ABA commission a Task Force dedicated solely to this issue, the present Task Force did address a few proposals including one that required law schools to devote half of their scholarships to need-based recipients and another that capped the amount that law students could borrow. To what extent does the ABA have authority to reform the business-side of law school?

RS: The ABA doesn’t have authority over the business-side of law schools, but there are people that do and the ABA is very active with them. We believe that the ABA ought to devise solutions and persuade other actors to implement these solutions.

JF: The Task Force recommended that Congress should carve out a separate federal loan system for legal education. How would this system be different than the current system?

RS: We don’t have a position on that. That’s why we recommended that a future task force study only this issue. We had a very broad charge and realized that this dimension of the problem was beyond the time and resources available to us. It’s a very good question, but I’m simply not in a position to answer it.

JF: The second area I would like to speak with you about is reform of the law school curriculum. The report stated that there should be clear recognition that law schools exist to teach individuals how to provide law-related services. The Task Force also recognized, I think very accurately, that law schools have become more academic than skills-based. What is the appropriate balance between the two approaches and how do we reach it?

RS: The structure of legal education varies more than most people realize. The Task Force made the general conclusion that the developments of the last fifteen years are good ones. Specifically, programs that focus on clinical and experiential learning are positive. Law schools need to continue in that direction, because they haven’t reached the right combination yet.”

JF: It seemed to me that the report portrayed U.S. News and World Report and other similar ranking systems in a less than positive light. In your opinion, how successful have these ranking systems been in providing the public with useful consumer information? More broadly, do you believe that these ranking systems are helping or hurting legal education in general?

RS: I’m not an opponent of external rankings. But, it’s clear to me that they do both good and bad things. The ranking system has prompted law schools to provide prospective applicants with more information about what the school offers and how its students do after graduation. This didn’t exist before the advent of ranking systems. On the other hand, the ranking systems reward things that drives up costs. For example, one of the factors considered by U.S. News and World Report is how much money the law school spends per student. On one hand, that seems like a good thing. On the other hand, it has the effect of driving up tuition rates. Someone is going to have to pay these costs. Under the present arrangement, the person paying is the student taking out loans. Because of this, we recommended that U.S. News and World Report stop using cost per student as a factor in its ranking system. We also recommended that more information, other than the rankings published by U.S. News and World Report, be made available to prospective applicants. The ABA collects a great deal of information about law schools, which is not public. It is our belief that applicants and their families would be greatly helped if more of the information that the ABA has about individual schools was made publicly available.

JF: The Task Force discussed the possibility of an alternative to the juris doctorate degree for persons that provide limited law-related services. Could you discuss this alternative in a bit more detail and the impact this would have on the legal profession?

RS: The best example about which we write is the decision by the state bar of Washington to create a post-baccalaureate legal curriculum for people who would be authorized only to assist in real estate transactions. The students would be tested and licensed in the same way that other professionals are. Those behind this plan believe that it makes that service available at a lower cost. The students don’t incur the costs of a three-year legal education, which results in lower costs for the consumers of this specific type of legal advice. This plan is being studied by a number of other states and we believe they deserve some experimentation and examination.

JF: In August of 2013, President Obama publicly supported a two-year juris doctorate program. Do you believe that we are moving toward this type of program?

RS: I would be surprised if it occurred, but our conclusion was that there is no reason why it shouldn’t be tried in some schools. The three-year model has only been the standard for the last seventy years or so. Before that, the system was characterized by a much different model. I believe that the current model has served us well and I don’t know that it’s clear that it needs reengineering. The interesting issue is whether there are other models that can rest alongside it. The only way to find out is for law schools to design such a program and test it out in real life.

JF: You’ve had a distinguished legal career and I know your work is far from over. Who has been your most valued mentor and how has he or she contributed to your professional career?

RS: That’s a very difficult question. I suppose it was Russell Lloyd, he was mayor of Evansville, Indiana, which is where I grew up. Russell was also a lawyer. Immediately after law school, I spent some time in Washington DC in an honors program for young lawyers at the Department of Transportation. Russell recruited me to come home and be his assistant when I was twenty-six or twenty-seven years old. I did a combination of administrative, policy, and legal work for five years. I learned a lot from him about how law gets applied in the real world. I learned how law gets fashioned. I also spent some time in and around the legislature and the city council. I learned how to talk to citizens about important topics of law and policy. Russell Lloyd was a very important mentor to me.

JF: What advice would you give law students as they prepare for graduation and a lifelong profession in the law?

RS: Obviously there are a number of things that are incredibly straightforward – course selection, attention to detail, and things like that. I’ll try to provide something a little less obvious: An open and willing approach to volunteering in one’s community is extremely important. Volunteering in non-profit organizations and attending public meetings are valuable experiences that shouldn’t be overlooked.

JF: Thank you very much for your time.

RS: It’s been my pleasure.

1. Honorable Randall T. Shepard became Chief Justice of the Indiana Supreme Court in l987 at age 40, then the youngest chief justice in the United States. Shepard also practiced law, served as a trial judge, was Executive Assistant to the Mayor of Evansville, Indiana, and served as Special Assistant to the U.S. Under Secretary of Transportation in Washington D.C. Shepard retired from the Supreme Court in March 2012. He presently serves as Executive in Residence at Indiana University’s Public Policy Institute and as a Senior Judge in the Indiana Court of Appeals. [↑](#footnote-ref-1)