

# Report Suggests Overhauling Law School Evaluation

*Law School Transparency argues for alternative to U.S. News system*

**JULIA CARDI**  
LAW WEEK COLORADO

A nonprofit organization that studies legal education wants to upend how law schools are evaluated and ranked.

Law School Transparency in a study released March 24 makes the case that the well known system U.S. News & World Report uses isn't meaningful or effective. The 2021 U.S. News & World Report law school ranking was released March 17.

The Law School Transparency project's scope rose from the organization's established focuses on student debt and diversity in legal education, said Kyle McEntee, a co-founder of LST. He said structural barriers get in the way of making law school more affordable and increasing diversity.

"Those are regulation and incentives, where U.S. News is really the

elephant in the room," he said. In his experience of more than 10 years running LST, he said, U.S. News inevitably factors into discourse about innovation in law schools.

McEntee said U.S. News' ranking has appeal because it distills a lot of complicated information into a simple list. But LST's new report makes the case that the U.S. News system is flawed because it directly compares schools between which head-to-head comparisons don't actually make sense.

Geographical differences are one example: Graduates of regional law schools from California and Pennsylvania probably aren't competing with each other for jobs – data shows graduates tend to stay in their school's state for their first job but the U.S. News ranking system compares the schools directly against each other.

The report says U.S. News' ranking system isn't meaningful or effective. Asked to define those terms, McEntee said, "From the student's perspective, trying to make a decision about which schools to apply to and to attend. And then from the school's perspective, whether it's helping them advance the core goals of educating students and being responsible participants in their community and the broader profession."

He said whether a law school evaluation system is meaningful or effective comes down to a question of validity. "Do the rankings measure what they purport to measure? And [U.S. News] purports to measure the best law schools without defining it."

The report discusses how law schools shape their operations with maintaining or improving rank in mind: for example, spending a lot of

money because U.S. News measures per-student spending as one factor in its measure of schools' faculty resources, and encouraging faculty members to take leaves in the spring, because U.S. News measures faculty-to-student ratios and counts faculty sizes in the fall for its faculty-to-student measures. LST argues these types of influences happen at the expense of law schools making innovations based on what seems best for legal education.

Law Week was not able to speak to any faculty members at Colorado's law schools to discuss whether they believe the U.S. News annual ranking influences how they operate.

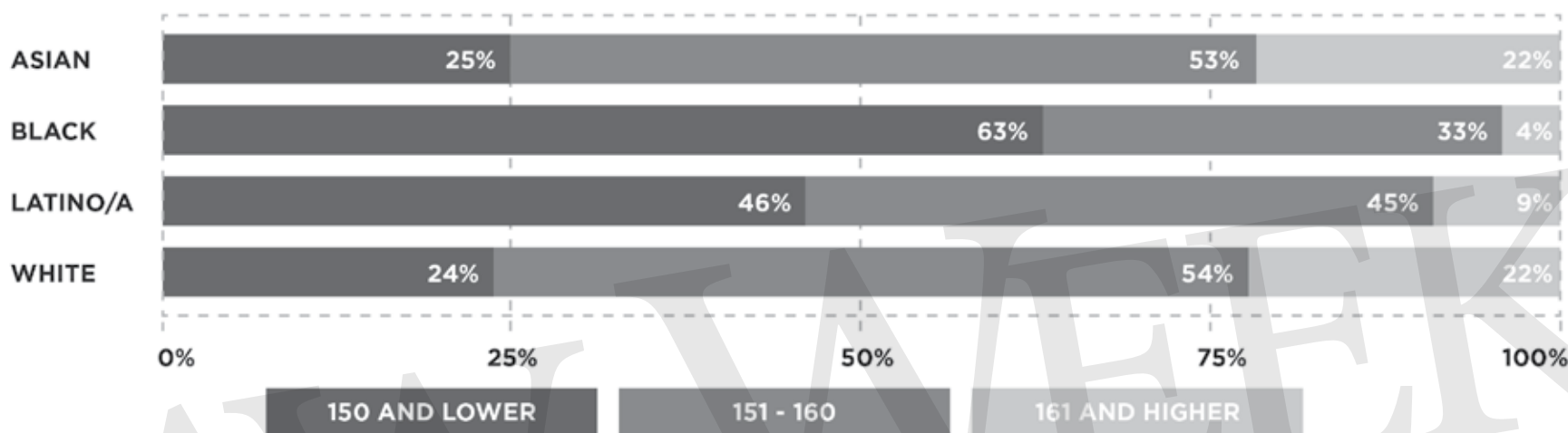
LST's report suggests using an efficiency metric in evaluating law schools to measure tuition revenue collected from students compared to numbers

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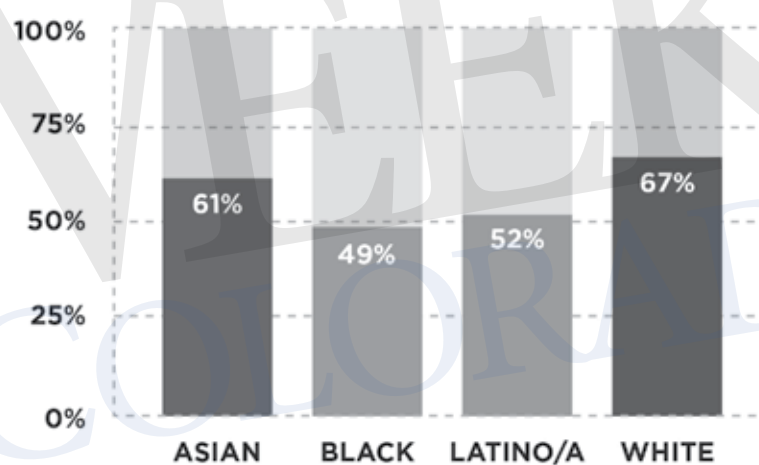
## THE COLOR OF MERIT

Research from the Law School Survey on Student Engagement suggests inequities in how much students pay for law school persist from awarding merit scholarships based on LSAT scores. The data shows black and Latino students tend to score disproportionately lower on the test than white and Asian students.

### LSAT DISTRIBUTION BY RACE AND ETHNICITY



### WHITE AND ASIAN RESPONDENTS WERE MOST LIKELY TO RECEIVE MERIT SCHOLARSHIPS.



Graphics reproduced with permission from LSSSE. Source: LSSSE report: "Law School Scholarship Policies: Engines of Inequity"

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**OVERTIME RULES**

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ers have until then to comply with requirements for posters and handbooks.

**LAW SCHOOL RANKINGS**

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of full-time jobs in the legal profession graduates get in a given year.

As an alternative to U.S. News, LST is developing its own evaluation system to measure factors such as law schools' "gender and racial representation, tuition transparency, diverse faculty and staff hiring practices [and] concrete steps to create inclusive environments," according to the report.

"Genuine competition will help unbind schools from the grips of a single ranking regime," says the report.

**DEBT AND THE PIPELINE**

LST also studies student debt, and the new report discusses the need to look at the affordability of law school as part of the "pipeline" often referred to in diversity discussions.

The report examines racial and gender inequities in how much students pay for law school, a function of awarding scholarships based on merit instead of need. It cites research from the Law School Survey of Student Engagement, a database of information about legal education based out of Indiana University.

Meera Deo, LSSSE director and a professor at the Thomas Jefferson School of Law, said reliance on LSAT scores for deciding who is eligible for merit scholarships is one systemic rea-

Statute requires the division to investigate any claims, but its direct investigations team will hold off on launching its own investigations into violations of new COMPS rules until April 16.

son for race and gender-based inequities in how much students pay for law school. Data compiled by LSSSE shows women tend to have lower LSAT scores than men but also tend to have higher undergraduate grade point averages and slightly outperform men academically in law school. Established research has also shown racial disparities in standardized test scores.

"If we look at the LSAT as a litmus test of sorts ... we're really doing a disservice to our women students and to students of color," Deo said.

Research outlines how merit-based scholarships seem to go to law students considered economic "safe bets": students who are statistically most likely to finish law school, pass the bar exam and get jobs that pay well enough for them to pay off their student loans.

Deo also challenged the seemingly accepted baseline rule that students shouldn't take on more debt for school than they expect to make in their first year working afterward. She said that assumption doesn't consider the unique circumstances of different populations, such as the benefits of graduates from underrepresented populations working in legal jobs that serve their communities, and they may consider the debt they take on for school worth the trade.

"There is a structural problem in the ways which debt creates constraints for particular populations, but

Wells said the leniency measures don't go far enough. "The state provided what I call administrative half measures that are short of suspending enactment or enforcement, which

is what I think is appropriate during this unprecedented time when we're seeing entire industries obliterated," she said. •

— Jessica Folker, [JFolker@circuitmedia.com](mailto:JFolker@circuitmedia.com)

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— Kyle McEntee,  
Law School Transparency co-founder

because we have that more systemic challenge, I would hesitate to put a rule out there that suggests it should apply equally to everyone," Deo said. "There are going to be particular situations and individuals who maybe need to take on extra debt for themselves and for their families in ways that [for] others, it wouldn't even be relevant to their population or to them as an individual."

McEntee said he couldn't say whether better access to scholarships for economically disadvantaged students can have a cyclical effect by increasing performance — Deo also said LSSSE hasn't studied that particular

link — but regardless, it's still unfair for certain demographics to systematically pay more for law school.

"If we can intervene through market forces — and by market forces I mean by creating markets as we plan to do with the index — and through regulation, whether it's through explicit bans on things or increased transparency to shame schools into stopping these inequitable pricing patterns," he said, "We could really see a change in where people go to school [and] how they're admitted, which would provide more opportunities to people." •

— Julia Cardi, [JCardi@circuitmedia.com](mailto:JCardi@circuitmedia.com)

**LEGISLATIVE SESSION**

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Senate makes much different arguments. The brief, also submitted March 24, says the state Constitution's plain language limits the legislative session to 120 calendar days in a row.

"Rule 44(g) is unconstitutional because it either ignores or effectively changes the plain language in the Colorado constitution, which only the people may amend as the constitution itself provides," argues the brief. It says the Supreme Court should interpret the 120-day limit according to the common understanding of "calendar days," arguing the phrase has always meant 120 consecutive days.

The brief also argues that the governor's authority to call a special session — which can also be called by a two-thirds vote in each chamber — is sufficient for legislative action in light of a declared disaster emergency. A brief filed by Democratic state lawmakers says special sessions can only cover specific topics laid out in a request to convene, so a special session isn't a substitute for the regular session.

Greenberg Traurig is representing the Republican lawmakers, and WilmerHale is representing the legislature's Democrats. •

— Julia Cardi, [JCardi@circuitmedia.com](mailto:JCardi@circuitmedia.com)

**BODY PARTS**

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eases and help people survive when people were being chopped up and sold to body brokers," TeSelle said.

However, TeSelle considers the Montrose case a "step worse." The indictment confirmed that people came to Sunset Mesa without any intention of having a loved one donated, dissected or used for any purpose, only to have them cremated and returned. Instead, the money would be taken for the cremation, and in the backroom the bodies would be cut up and sent out.

In 2018, TeSelle said the firm held an informational session in Montrose to help keep people updated on the situation after the raid. Burg and TeSelle went without advertising, and had hundreds of people show up who had been touched by the Hess operation.

Burg added that they had asked some of the people to open up the urn or box which supposedly contained the cremains. In many cases, the tested remains revealed they consisted of cement dust, wires and metal were placed in the urn to make it feel heavier.

Because the litigation is still in its infancy, Burg Simpson has not recovered or been able to get further information on Sunset Mesa. The FBI

seized all of the records and all of the computers, and have kept it for over two years, Burg and TeSelle explained.

Last December, Burg said the Arizona case went to court resulting in a \$58.5 million verdict, what is believed to be one of the largest verdicts in the history of the state. In the Colorado case, the Burg Simpson attorneys are proceeding against Hess, her mother and father, who was not indicted, and the companies who purchased the bodies.

TeSelle said buying bodies at cut rates on the open market is no different than someone opening the back of a truck and selling you a \$10,000 Rolex watch for \$500. "You know it's one of two things: it's either a fake Rolex, or if it's a real Rolex, you're trafficking in stolen goods. And that's really what this is here, these body parts were stolen from family members."

One item of interest in the indictment, according to TeSelle, was the falsifying of documents. One of the key parts of their concerns is that Hess was allegedly selling the body parts as if they were donated, but there would be no paperwork from their clients since no one had given consent. Consent must be given in writing, or in certain circumstances recorded, for a body donation, TeSelle said. He added that Hess did not have that from any of their plaintiffs.

So how Hess was able to sell the bodies on the market is critical, and there may be others who need to be held accountable, TeSelle added.

The defendant's charges in the DOJ case could result in up to 20 years in prison for each count of mail fraud and up to five years in federal prison for each count of illegal transportation of hazardous materials. "They each also face up to a \$250,000 fine, per count," the DOJ said.

At a later date, the U.S. Attorney's Office will be conducting a victim-only meeting to provide additional information and answer victim questions.

Burg said they were extremely pleased with the criminal charges, but they will continue with their cases to hold all involved to account.

Both Burg and TeSelle said there is an importance to providing bodies for training medical personnel or for other uses, but that this process must be done correctly and not have anyone deceived in the process.

TeSelle said those responsible needed to be held to account, adding that this indictment was simply the end of the first act in a long process.

"It's about the most despicable thing a person could do to another human being," Burg said of the misuse of deceased bodies. •

— Avery Martinez, [AMartinez@circuitmedia.com](mailto:AMartinez@circuitmedia.com)