

AN ANALYSIS OF THE RELATIONSHIP BETWEEN INITIAL SCORE AND
EVENTUAL PASS/FAIL STATUS ON THE CALIFORNIA BAR EXAMINATION

A Report Prepared for the
Committee of Bar Examiners of the State Bar of California

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SUMMARY

Previous analyses of California General Bar Examination (GBX) data have provided information about the passing rate among applicants who took this examination for the first time and the passing rate among those who had made one or more prior attempts to pass. However, there has not been a longitudinal study of the eventual (as distinct from initial) pass rate among first timers. This report fills that gap by presenting data on the relationship between an applicant's score the first time he/she took the examination and that applicant's ultimate pass/fail status. This report also discusses the relationship between this status and: the type of law school from which an applicant graduated, an applicant's sex and race, and an applicant's score on the First Year Law Students' Examination (FLYSX).

The sample for this study consisted of all the applicants who in July 1977 took the GBX for the first time (N = 5419). Since it was possible to track the applicants who failed this examination over as many as seven subsequent administrations of the GBX, the study was able to identify essentially all the July 1977 first timers who eventually passed. Results indicated that:

- o About 68% of the applicants passed on their first attempt. The passing rate dropped sharply on succeeding attempts. For instance, 43% of the applicants that took the GBX two or more times passed on their second attempt while only 25% of those that took it three or more times passed on their third attempt.
- o About 88% of the applicants eventually passed. Three fourths of these successful applicants passed on their first attempt. Over 60% of the repeaters who eventually passed achieved their passing status on their second attempt.
- o There was a strong, but far from perfect, relationship between initial GBX score and eventual pass/fail status. Applicants who passed on their first attempt tended to have much higher scores than those who passed after one or more subsequent attempts who in turn had higher scores than those who did not eventually pass. And, most of the applicants who came close to passing on their first attempt eventually passed while most of the applicants who did not come close to passing on their first attempt did not eventually pass. However, there was no initial score that clearly distinguished between those who did and did not eventually pass.
- o Female applicants had slightly higher initial and eventual pass rates than male applicants.
- o Graduates from ABA approved law schools had a much higher initial pass rate (75%) than graduates from California accredited schools (53%) who in turn had a higher initial pass rate than graduates from unaccredited schools (44%). However, the eventual pass rate of graduates from the California accredited schools (84%) came close to the eventual pass rate of the ABA graduates (92%).
- o About 71% of the Anglo but only 41% of the minority applicants passed on their first attempt. About 90% of the Anglo applicants eventually passed, about 80% the Asian and Hispanic applicants eventually passed, but only 64% of the Black applicants eventually passed.

- o The disparity in passing rates among racial groups was not related to the type of law school from which the applicants in these groups graduated. In fact, 79% of the minority applicants but only 67% of the Anglo applicants graduated from ABA approved schools. And, with the exception of Hispanic applicants, the percentage of females among minority applicants was actually slightly higher than it was among Anglo applicants.

The sample of 5419 first timers contained 682 applicants who had taken the First Year Law Students' Examination (FYLSX). Most, but not all, of these 682 applicants were unaccredited law school graduates. Analyses indicated that:

- o An applicant's score on the FYLSX was a good predictor of that applicant's GBX scores, especially the score on the MBE, even though: the FYLSX was usually taken three years before the GBX, it only contained three of the content areas covered by the GBX, and scores on the FYLSX were necessarily restricted to just those who had passed this examination.
- o An applicant who earned the minimum passing score on the FYLSX, 560 points, had substantially less than a 50% chance of passing the GBX on the first attempt but a slightly better than 50% chance of eventually passing the GBX.
- o The passing rate for unaccredited law school graduates on the GBX overestimates the percent that would pass this examination among the group of students that begin and complete their legal studies at an unaccredited law school. The reason for this is that most students who begin their legal studies at an unaccredited school do not pass the FYLSX (and thereby become ineligible to take the GBX) while some of those who do pass the FYLSX transfer to and eventually graduate from an accredited school.

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PURPOSE

This report describes the relationship between an applicant's initial score on the California Bar Examination and that applicant's eventual pass/fail status. The report also discusses the relationship between this status and the type of law school from which the applicant graduated, the applicant's sex and race, and the applicant's score on the First Year Law Students' Examination (FYLSX).

EXAMINATION SCORES

The July 1977 version of the California's General Bar Examination (GBX) had two parts, namely; the Multistate Bar Examination and the Essay test.

The Multistate Bar Examination (MBE) consisted of 200 multiple choice questions from six content areas. MBE raw scores (i.e., the number of questions answered correctly) were scaled so that the maximum possible MBE score was 514 points.

The Essay test was administered in three sessions. Applicants were given 3.5 hours to answer any four of the five questions that were asked in each session. A team of readers was assigned to grade all the answers to a particular question; i.e., there were a total of 15 teams. Each answer was graded by a single reader on a scale of 0 to 100 points. Thus, an applicant could earn up to 1200 points on the Essay test.

An applicant's total GBX score was the sum of that applicant's Essay and MBE scores. Applicants with GBX scores over 1199 passed the examination while those with scores below 1140 failed. Applicants in the 1140 to 1199 range had all 12 of their essay answers evaluated as a set by at least two and sometimes three members of the Committee of Bar Examiner's Board of Reappraisers. The purpose of this reread process was to determine whether an applicant's answers (when evaluated as a set) warranted giving that applicant enough additional points to allow that applicant to pass the examination. If enough points could be found, the applicant was assigned a passing status. If not, the applicant was assigned a failing status. However, no change was made in the applicant's initial score as a result of the reappraisal process. One consequence of this policy was that 5.6% of the July 1977 first time takers (N = 305) passed the examination even though their initial Total GBX scores were less than 1200 points.

Several changes were made in the examination procedures after the July 1977 administration. These changes included reducing the number of questions an applicant was instructed to answer, implementing a multiphased grading process which resulted in passing many applicants after reading only a few of their essay answers, and bifurcating the examination (i.e., allowing applicants to pass the whole examination if they passed the MBE on one administration and the Essay on another administration). Although these changes did not affect subsequent pass/fail standards (Klein, 1981), they did preclude direct comparisons between July 1977 and subsequent GBX scores. Thus, for the purposes of this report, an applicant's performance on any administration after July 1977 is reported solely in terms of that applicant's pass/fail status (i.e., rather than the score achieved).

SAMPLE

The sample for this study consisted of the 5419 applicants who in July 1977 took the MBE and Essay portions of the GBX for the first time. Table 1 contains summary statistical data on this group. A comparison of these data with that obtained on other examinations indicates that the July 1977 first timers performed about as well on the examination as first timers who took other July administrations of the GBX (Klein, 1981). For example, on the five July administrations given between 1976 and 1980, the average MBE score among first timers ranged from 374 to 382 (these scores were computed using the 1977 procedures).

Table 1

STATISTICAL DATA ON JULY 1977 FIRST TIMERS

	Essay	MBE	Total
Average Score	840.65	378.03	1218.68
Standard Deviation	62.77	34.89	88.98
Reliability	.77	.90	.88
Correlation between Essay and MBE scores = .63			

The use of the July 1977 administration for this study permitted tracking all initially failing applicants across as many as seven subsequent examinations. Cross-sectional data suggested that seven administrations would capture almost all the initially failing applicants that would eventually pass. For example, less than 4% passed within the group of 254 July 1977 examinees who had made more than five previous attempts to pass. And, less than 4% of the total sample of July 1977 applicants (N = 7191) had taken the examination more than five times.

STATUS GROUPS

The sample was divided into four status groups; namely: (1) applicants who passed on their first attempt, (2) applicants who failed on their first attempt but who passed subsequently, (3) applicants who failed on their first attempt and who also failed on all subsequent attempts, and (4) applicants who failed on their first attempt and did not take the test again.

DEFINITIONS

The term "repeaters" refers to applicants in groups 2 and 3 because these applicants made more than one attempt to pass (29% of the July 1977 first timers became repeaters). The term "attempts" refers to the number of administrations of the GBX on which an applicant took the MBE and/or Essay portions of the examination.

An applicant's law school was placed in the California Accredited category if that law school received provisional accreditation prior to July 1977.

RELATIONSHIP OF STATUS GROUP TO INITIAL GBX SCORES

Table 2 presents the average GBX scores and the percentage of applicants in each of the four status groups on the July 1977 examination. Table 3 presents the average scores for the repeaters who eventually passed the examination relative to the number of attempts they made in order to pass. Table 4 presents the average scores relative to the number of attempts for the repeaters who did not eventually pass. These data indicate:

- o About 68% of the 5419 first time takers passed on their first attempt. The passing rate dropped sharply on succeeding attempts. For instance, of the 1563 applicants that took the GBX two or more times, 675 (43%) passed on their second attempt. Only 25% of the 778 applicants that took the GBX three or more times passed on their third attempt.
- o Almost 9 out of 10 of the first time takers eventually passed. Over 75% of these successful applicants passed on their first attempt.
- o There were large differences in average GBX scores among the four status groups. Those who passed on their first attempt had an average GBX Total score that was 126 points higher than the applicants who initially failed but eventually passed and 188 points higher than the repeaters who did not eventually pass.
- o Slightly over 60% of the repeaters who eventually passed did so the second time they took the examination. About 70% of all the repeaters eventually passed.
- o Among the repeaters who eventually passed, there was an inverse relationship between the number of attempts and initial GBX scores. For example, applicants who passed on their second attempt had a 44 point higher initial average Total GBX score than applicants who needed more than four attempts to pass.
- o Repeater who eventually passed had higher average GBX scores than repeaters who failed regardless of the number of attempts made. For example, the average Total GBX score of the repeaters who passed after making over four attempts was 28 points higher than the average score of the repeaters who did not eventually pass.
- o Applicants who failed the July 1977 examination and who made no further attempt to pass had slightly higher average GBX scores than applicants who made one or more additional but unsuccessful attempts to pass. For example, the former group had a 16 point higher average Total GBX score than the latter group.
- o There was a weak inverse relationship between initial score and the number of subsequent attempts among the applicants who did not eventually pass. For example, the average initial Total score of the applicants who made as many as four attempts to pass (i.e., including those who made only one attempt) was 1088 while the average of those who made more than four attempts was 1072.

Table 2

AVERAGE GBX SCORES AND PERCENTAGE OF APPLICANTS IN EACH STATUS GROUP

Status Group	Number	Percent	Average GBX Score			Average Number of Attempts
			Essay	MBE	Total	
Initial Pass	3669	68	871	395	1267	1.0
Subsequent Pass	1106	20	791	350	1141	2.7
Subsequent Fail	457	8	752	327	1079	4.1
No Subsequent Attempt	187	4	759	336	1095	1.0
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All First Timers	5419	100%	841	378	1219	1.6

Table 3

INITIAL AVERAGE SCORES OF REPEATERS WHO EVENTUALLY PASSED
RELATIVE TO THE NUMBER OF ATTEMPTS THEY MADE TO PASS

Number of Attempts	Number of Repeaters Passing	Percent of all Passing Repeaters	Percent of all Repeaters	Average GBX Score		
				Essay	MBE	Total
2	675	61	43	797	354	1151
3	191	17	12	785	349	1134
4	159	14	10	783	342	1125
5-7	81	7	5	770	337	1107
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Total	1106	100%	70%	791	350	1141

Table 4

INITIAL AVERAGE SCORES OF REPEATERS WHO DID NOT EVENTUALLY PASS
RELATIVE TO THE NUMBER OF ATTEMPTS THEY MADE TO PASS

Number of Attempts	Number of Repeaters Failing	Average GBX Score		
		Essay	MBE	Total
2	110	748	333	1081
3	88	756	330	1086
4	80	753	332	1085
5	65	751	319	1070
6	53	761	320	1081
7	61	747	318	1065

RELATIONSHIP OF INITIAL TOTAL GBX SCORE TO FINAL STATUS

Table 5 shows the number of applicants at various initial Total GBX score levels and the percentage of these applicants who passed (where passing could stem from an initial score over 1199, the reappraisal process, or repeated attempts to pass). These data indicate that there is a strong relationship between initial score and final pass/fail status; e.g., less than 25% of the applicants with scores below 1080 eventually passed while more than 90% of the applicants with scores in the 1160 to 1199 range eventually passed.

Table 5

RELATIONSHIP OF INITIAL TOTAL GBX SCORE TO EVENTUAL PASS/FAIL STATUS

	Less Than 1080	1080 to 1099	1100 to 1119	1120 to 1139	1140 to 1159	1160 to 1179	1180 to 1199	More Than 1199
Number of Applicants	343	123	203	232	331	378	445	3364
Percent Passing	22	47	62	65	73	86	97	100

Table 6 shows the percentage of applicants within each status group at various initial Total GBX score levels. These data indicate that while the relationship between an applicant's initial score and eventual pass/fail status was quite strong, it was not perfect. In other words, while most of the applicants who came within a few points of passing on their first attempt eventually passed, there were several that did not. Similarly, some applicants with scores below 1100 on their first attempt were nevertheless eventually able to achieve a passing status (such as through extra diligent studying for a subsequent administration).

Because the relationship between initial score and final status was not perfect, lowering the pass/fail line to a point that would include most of the applicants who eventually passed would result in passing a large percentage of applicants who were not able to achieve a passing status even after as many as seven attempts. For example, 63% of the repeaters who eventually passed came within 60 points of passing on their first attempt. However, 20% of the repeaters who did not eventually pass and 33% of those who failed initially and did not try again also came within 60 points of passing on their first attempt (see Table 6).

Several repeaters who did not eventually pass had scores below 1140 on their initial attempt, but between 1140 and 1200 on a subsequent attempt. Lowering the pass/fail line to 1140 would therefore result in eventually passing applicants who scored below 1140 on their first attempt and who never scored above 1200. These applicants also would be far less qualified than those with initial scores above 1140 (see Table 5). In short, lowering the pass/fail line so as to initially pass a large portion of the repeaters who would eventually pass would in effect lower standards because there was no initial score that clearly distinguished between those who did and those who did not eventually pass.

Table 6

PERCENTAGE OF APPLICANTS WITHIN EACH STATUS GROUP
AT VARIOUS INITIAL TOTAL GBX SCORE LEVELS

Status Group	Less Than 1100	1100 to 1119	1120 to 1139	1140 to 1159	1160 to 1179	1180 to 1199	More Than 1199
Initial Pass	0	0	0	0	0	8	92
Subsequent Pass	12	11	14	22	28	13	0
Subsequent Fail	56	13	12	12	6	2	0
No Subsequent Attempt	41	10	16	17	13	3	0

RELATIONSHIP OF STATUS GROUP TO BACKGROUND CHARACTERISTICS

Tables 7 - 9 show the percentage of applicants in each status group relative to their sex, race, and type of law school. These data indicate:

- o Female applicants had a slightly higher initial pass rate than male applicants (70% to 67%). Female applicants also had a higher subsequent pass rate. For example, 76% of the female repeaters but only 69% of the male repeaters eventually passed.
- o Anglo applicants had a much higher initial pass rate (71%) than any other racial group. This finding is consistent with previous research which has shown that differences among racial groups on the MBE and Essay parallels differences among them in law school grades and admission test scores (see Klein, 1979).
- o About 90% the Anglos eventually passed and about 80% of the Asian and Hispanic applicants eventually passed, but only 64% of the Blacks eventually passed. The eventual pass rate among Hispanics was slightly higher than that of Asians even though the Asians' initial pass rate was 5% higher than the Hispanics' initial rate.
- o About 75% of the graduates from ABA accredited law schools passed the examination on their first try and 92% of the graduates from these schools eventually passed.
- o Graduates of ABA accredited law schools had a much higher initial pass rate than applicants from California accredited schools who in turn had a higher initial pass rate than graduates from non-accredited law schools.
- o The eventual pass rate for graduates from California accredited schools (84%) was almost as high as the eventual pass rate for graduates from ABA accredited schools (92%) as a result of the former group's repeated efforts to pass the examination.
- o Differences in the subsequent pass rates among repeaters from the various types of schools paralleled the differences in their initial pass rates; i.e., the higher the initial pass rate, the larger the percentage of repeaters who eventually passed.

Table 7

PERCENTAGE OF APPLICANTS IN EACH STATUS GROUP WITHIN EACH SEX GROUP

Status Group	Male	Female	Total
Initial Pass	67	70	68
Subsequent Pass	20	21	20
Subsequent Fail	9	6	8
No Subsequent Attempt	4	2	4
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Percent of Applicants	74	26	100

Table 8

PERCENTAGE OF APPLICANTS IN EACH STATUS GROUP WITHIN EACH RACE GROUP

Status Group	Anglo	Asian	Black	Hispanic
Initial Pass	71	48	30	43
Subsequent Pass	19	30	34	37
Subsequent Fail	7	16	27	15
No Subsequent Attempt	3	7	8	5
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Percent of Applicants	90	3	3	4

Table 9

PERCENTAGE OF APPLICANTS IN EACH STATUS GROUP
WITHIN EACH TYPE OF LAW SCHOOL

Status Group	Calif ABA	Other ABA	Calif Accred	Un- accred	Other
Initial Pass	76	74	53	44	48
Subsequent Pass	17	16	31	31	19
Subsequent Fail	5	6	14	22	16
No Subsequent Attempt	2	4	2	4	17
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Percent of Applicants	58	11	17	9	5

The Other category includes applicants who did not take the GBX within one year of graduation from law school.

RELATIONSHIP OF INITIAL SCORE TO BACKGROUND CHARACTERISTICS

Table 10 presents the average Total GBX score within each school type, race, and sex group as well as the percentage of applicants within each group at various initial Total GBX score levels (i.e., the percentages in each row sum to 100%). These data again indicate that the differences in passing rates among groups correspond to differences in their initial Total GBX scores.

Table 10 shows that lowering the pass/fail line by several points would not improve the minority pass rate appreciably more than it would improve the Anglo pass rate. For example, if the line were dropped 40 points, 18% more minority applicants would have passed on their first attempt. However, 15% more Anglo applicants also would have passed. And, because of the large number of Anglo applicants taking the examination, about eight times as many Anglo as minority applicants would benefit from a lowered pass/fail standard. If the line was dropped to 1100, almost all the Anglos would pass on their first attempt but over 20% of the minority applicants would fail on their first attempt. In short, there is no score within a zone of potential pass/fail standards that would produce essentially equivalent initial passing rates among racial groups.

Table 10

PERCENTAGE OF APPLICANTS WITHIN EACH SEX, RACE, AND LAW SCHOOL TYPE AT VARIOUS INITIAL TOTAL GBX SCORE LEVELS AND THE AVERAGE SCORE IN EACH GROUP

Group	Less Than 1100	1100 to 1119	1120 to 1139	1140 to 1159	1160' to 1179	1180 to 1199	More Than 1199	Average Total Score
Male	9	4	5	6	7	8	61	1217
Female	8	4	4	6	6	8	64	1222
Anglo	6	4	4	6	7	8	65	1225
Asian	20	5	6	11	9	10	41	1172
Black	28	7	14	7	7	8	28	1144
Hispanic	19	5	7	9	11	9	38	1166
Calif ABA	6	2	4	5	6	8	71	1237
Other ABA	8	4	3	3	6	7	70	1233
Calif Accred	12	6	5	10	10	12	45	1190
Unaccredited	18	6	9	10	10	10	37	1168
Other	23	7	5	9	8	8	41	1167

The differences in average scores among racial groups were not due to differences in the types of law schools they attended. In fact, 79% of the minority applicants but only 68% of the Anglo applicants graduated from ABA approved schools (see Table 11). These differences were statistically significantly different than would be obtained by chance and they also are consistent with the findings of previous research (Klein, 1979).

Table 11

PERCENTAGE OF FIRST TIMERS WITHIN EACH RACIAL GROUP
THAT GRADUATED FROM EACH TYPE OF LAW SCHOOL

	Anglo	Asian	Black	Hispanic
Calif ABA	57	67	56	68
Other ABA	11	13	19	13
Calif Accred	18	5	6	9
Unaccredited	9	6	7	6
Other	5	10	12	4

The percentage of females among minority applicants (29%) was generally slightly higher than it was among Anglo applicants (25%). However, there was a disproportionately large percentage of Hispanic males (see Table 12).

Table 12

PERCENTAGE OF FIRST TIMERS WITHIN EACH RACIAL GROUP
THAT WERE IN EACH SEX GROUP

	Anglo	Asian	Black	Hispanic
Male	75	70	62	79
Female	25	30	38	21

RELATIONSHIP BETWEEN GBX AND FYLSX SCORES

Students attending unaccredited law schools (and all students who have not successfully completed two years of undergraduate education) must pass the First Year Law Students' Examination (FYLSX) in order to receive State Bar of California credit for completing one year of law studies. And, these students cannot receive credit for any law studies until they pass the FYLSX. Thus, these students must pass the FYLSX (as well as meet other requirements) in order to be eligible to take the GBX.

The FYLSX is administered in June and again in October. The test is given in two 3.5 hour sessions. In the morning session, examinees answer four essay questions drawn from three areas: contracts, torts, and criminal law. An examinee can earn up to 100 points per question. The afternoon session consists of 100 multiple choice questions drawn from the same three areas that are covered on the essay portion of the examination. Raw scores on the multiple choice section (i.e., the number of questions answered correctly) are converted to scale scores so as to control for possible differences in question difficulty across administrations of the test. The maximum possible scale score on the multiple choice section is 400 points. The total score on the FYLSX is the sum of the four essay scores plus the multiple choice scale score. A total score of 560 or higher is required for passing the FYLSX.

The sample of 5419 applicants who took the GBX for the first time in July 1977 contained 682 applicants who had taken the FYLSX. Most of these applicants took the June 1974 FYLSX (because those attending unaccredited schools would need three more years of law school training after passing the FYLSX in order to be eligible to take the July 1977 GBX).

Table 13 shows the number of applicants within each school type who had FYLSX scores. It can be seen from this table that several applicants who did not graduate from an unaccredited school nevertheless took the FYLSX. Most of these applicants transferred to an accredited or ABA school after taking the FYLSX or took the FYLSX because they did not complete two years of undergraduate education prior to enrolling in law school.

Table 13 further indicates that 16 unaccredited school graduates did not take the FYLSX. Almost all of these applicants successfully completed their first year of law studies at an ABA or California accredited school (i.e., prior to their transferring to an unaccredited school) or passed the FYLSX prior to June 1974.

Table 13

NUMBER OF APPLICANTS WITHIN EACH SCHOOL TYPE THAT TOOK THE FYLSX

<u>Exams Taken</u>	<u>Calif ABA</u>	<u>Other ABA</u>	<u>Calif Accred</u>	<u>Unaccred</u>	<u>Other</u>	<u>Total</u>
GBX + FLYSX	36	10	146	474	16	682
GBX Only	3082	613	750	16	276	4737
Total	3118	623	896	490	292	5419

Table 14 presents the average FYLSX and GBX scores for the applicants in each status group that took the FYLSX and the average number of attempts the applicants in each group made to pass the GBX and FYLSX. These data indicate that there was a strong relationship between FYLSX and status group. For example, there was a 48 point difference in average FYLSX scores between applicants who passed the GBX on their first attempt and repeaters who did not eventually pass. FYLSX scores also provided a good prediction of GBX scores and the average number of attempts an applicant made to pass the GBX. The small number of applicants in the "No Subsequent Attempt" category requires interpreting their data with extreme caution.

Table 15 contains observed and corrected correlations between GBX and FYLSX scores. The corrected correlations in this table estimate the strength of the relationship between the measures if there was no restriction in the range of FYLSX scores; i.e., if all the students who took the FYLSX also took the GBX. These estimates were made using the procedures described by Thorndike (1949; Case 2, page 173) and a statistical analysis that showed that the standard deviation of the total FYLSX scores was 68 in the population of 2209 students who took the June 1974 examination as distinct from the standard deviation of 49 in the restricted sample of 682 students who went on to take the July 1977 GBX.

Table 14

AVERAGE GBX AND FYLSX SCORES FOR APPLICANTS IN EACH STATUS GROUP AND THE AVERAGE NUMBER OF ATTEMPTS THEY MADE TO PASS THE GBX AND FYLSX

GBX Status Group	N	Per- cent	Average GBX Score			FYLSX Score	Average Number of Attempts on	
			Essay	MBE	Total		GBX	FYLSX
Initial Pass	338	50	857	387	1244	602	1.0	1.1
Subsequent Pass	208	31	789	350	1139	574	3.1	1.3
Subsequent Fail	118	17	746	327	1073	554	4.6	1.4
No Subsequent Attempt	18	3	773	340	1113	574	1.0	1.1
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All FYLSX Takers	682	100%	815	364	1179	585	2.3	1.2

The last FYLSX score was used if an applicant took the FYLSX more than once. 94 of the 682 students took the FYLSX more than once and 74 of these FYLSX repeaters were unaccredited law school graduates.

Table 15

OBSERVED AND CORRECTED CORRELATIONS
BETWEEN FYLSX AND GBX SCORES (N=682)

FYLSX with:	Observed Correlation	Correlation Corrected for Restriction in Range
MBE	.53	.66
Essay	.33	.44
Total GBX	.45	.57

In the unrestricted population of all June 1974 takers (N = 2209), the FYLSX total score had a reliability of .87 (based on reliabilities of .71 for its Essay and .82 for its Multiple Choice sections; and a .65 correlation between these two sections).

The data in Table 15 further substantiates that the FYLSX is a good predictor of GBX scores; especially considering that the FYLSX is usually taken three or more years before the GBX, it covers only three of the content areas included in the GBX, there is a much smaller range of FYLSX scores among those who pass the FYLSX than among the entire group that take it (which biases the observed correlations downwards), and the GBX and FLYSX scores are less than perfectly reliable (which also tends to limit the observed correlations).

FYLSX's higher correlation with MBE than with Essay scores is probably due mainly to two factors: (1) the higher reliability of the MBE than the Essay section of the GBX and (2) the Multiple Choice section of the FYLSX carries more weight in determining the relative standings of the examinees on this test than does the score on the four essay questions. In other words, even though a student can earn up to 400 points on each section, the standard deviation of the Multiple Choice section (45) was much larger than the standard deviation of the Essay section (30) in the population of 2209 students who took the June 1974 FYLSK which in turn resulted in the Multiple Choice section having a greater influence on relative standings on this examination.

The data in Table 15 were used to construct an equation for predicting GBX scores from FYLSX scores. This equation indicated that an applicant with a FLYSX score of 613 is likely to earn about 1200 points on the GBX (i.e., the minimum score required for passing). An applicant would need a FLYSX score of 534 in order to have a predicted Total GBX score of 1140; i.e., about the average initial GBX score of the applicants who failed on their first attempt but eventually passed (see Tables 2 and 14). An applicant who just passes the FYLSX with a score of 560 therefore has substantially less than a 50/50 chance of passing the GBX on the first attempt but slightly better than a 50/50 chance of eventually passing the GBX.

Table 16 presents the average predicted Total GBX score on the first attempt for various FYLSX scores. As in all the other tables involving FYLSX scores, these predictions are based on the last and thereby the highest FYLSX score earned by an applicant (i.e., in the event the applicant took the FYLSX more than once).

Table 16

PREDICTED INITIAL TOTAL GBX SCORES
FOR APPLICANTS WITH VARIOUS FYLSX SCORES

FYLSX Score	480	500	520	540	560	580	600	620
Predicted GBX	1099	1114	1129	1145	1160	1175	1190	1205
Predicted Total GBX Score = 733.67 + (.761)(FLYSX Score)								

The passing rate on the FYLSX is generally below 40% and often below 30% (see Table 17). While this rate might seem quite low, it is evident from the data above that the pass/fail line on the FYLSX (560 points) is not unduly restrictive. Applicants who just make it over this line have substantially less than a 50% chance of passing the GBX on their first attempt and only slightly better than a 50% chance of eventually passing. Standard statistical formulas further indicate that if the FYLSX's reliability were increased, predictive accuracy also would be increased. This would have the effect of lowering the predicted GBX scores for applicants with FYLSX scores below 585 (and increasing the predicted scores for applicants with FYLSX scores above 585).

Table 17

NUMBER OF EXAMINEES TAKING AND THE PERCENT PASSING THE FYLSX

Year	Number of Examinees		Percent Passing	
	June	October	June	October
1971	1187		42	
1972	2411		38	
1973	2217		46	
1974	2209	866	34	12
1975	1807	770	40	13
1976	1717	769	35	20
1977	1366	602	37	26
1978	1168	553	27	18
1979	833	395	29	22
1980	603	352	24	23
1981	627	361	24	26

The FYLSX was given only once per year from 1971 through 1973.

Table 17 also indicates that the percent passing the FYLSX has been declining. This drop is most likely attributable to a change in the general ability level of the students who take the FYLSX. Specifically, some formerly unaccredited schools received California accreditation after 1973 (which also partially accounts for the marked drop in the number taking the test). Since the students at these newly accredited schools tended to do better on the FYLSX than students at the schools that were still unaccredited and since the students at the newly accredited schools no longer have to take the FYLSX, there probably has been a decline in the general ability level of those who take the FYLSX.

The relatively low pass rate on the FYLSX is a very significant factor when comparing the pass rates of school types on the GBX. The reason for this is that many if not most of the students attending unaccredited schools are unlikely to ever be eligible to take the GBX. The initial and eventual pass rates on the GBX of applicants from unaccredited schools are therefore not indicative of what the GBX pass rates would be if all the students at the unaccredited schools were allowed to take the GBX. In other words, even though the initial and eventual pass rates of applicants from unaccredited schools are relatively low (see table 9), these rates would be far lower if the FYLSX did not remove a substantial portion of the unaccredited students from the GBX's potential applicant pool.

DISCUSSION

About 55% of the applicants who took the July 1977 GBX passed. This is about the same percent that passed the five July examinations given between 1976 and 1980 (Klein, 1981). However, it is evident from this report and other studies that the overall pass rate is very misleading. The overall rate does not consider that about 25% of those taking the examination are repeaters. And, a large number of these repeaters had initial GBX scores so low as to make it highly unlikely that they would eventually pass.

There also are large differences in passing rate among types of schools. Applicants from unaccredited schools have much lower initial and eventual pass rates than do applicants from ABA schools. This is not surprising given the large differences in admissions standards between these two types of schools (Klein, 1979) and the fact that the pass/fail line on the FYLSX is set at a level that is well below the score that would be needed to have even a 50/50 chance of passing the GBX on the first attempt.

The misleading nature of the overall pass rate is most evident when applicants are disaggregated on the basis of number of attempts and law school type (see Table 9). And, since almost all states except California limit eligibility to take the bar examination to applicants from ABA approved law schools, any comparisons between California's passing rate and the passing rate in other states must be restricted to ABA graduates. This is a significant consideration because the results presented in this report show that a high percentage of ABA graduates eventually pass the GBX.

The foregoing considerations and the other data presented in this report suggest that there are four qualitatively different groups taking the California examination. One group consists mainly of ABA graduates. About 90% of these applicants pass on their first or second attempt. A second group is composed mainly of applicants from accredited and unaccredited schools. About 84% of these applicants eventually pass, often as a result of several repeated attempts to pass (and the additional studying and preparation that is associated with such repeated efforts). The third group consists of applicants who take the California examination but are not really committed to practicing law in California. Thus, if they fail, they are unlikely to take the test again and therefore wind up in the No Subsequent Attempt category. Group 4 consists of applicants who take the examination over and over again even though their initial GBX scores indicate that they have a very slight chance of ever passing. Several of these applicants have taken the GBX over 20 times!

The number of applicants in Group 4 appears to be growing. The basis for this conclusion is that the pass rate among ABA first timers has not been declining as rapidly over the past several years as has the overall pass rate. For example, between 1976 and 1980, the overall pass rate on the July GBX declined 11% while the pass rate for ABA first timers on these examinations declined by only 7% (Klein, 1981). It may be inferred from these data that attrition in Group 4 during this period (due to eventually passing the examination or not making any further attempts) did not keep pace with the number of applicants being added to it. These additions were most likely to have come from the unaccredited schools because the graduates of these schools tended to have much lower GBX scores than graduates of ABA or California accredited schools (see Table 10). This line of reasoning further suggests that even though the passing rate on the FYLSX is quite low, the FYLSX still lets into the GBX applicant pool a significant number of unaccredited school graduates who have relatively little chance of ever passing the GBX.

The slight decline in the pass rate on the GBX among first timers during the past several years suggests that the eventual pass rate also may be dropping. For example, in July 1977, about 76% of the ABA first timers passed while on the July 1980 GBX, only 73% of the ABA first timers passed. Previous research has indicated that this decline has been due to a decrease in the general ability level of the applicants taking the GBX rather than to any change in pass/fail standards (Klein, 1981).

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