

THE PERFORMANCE OF NOVICE LAW STUDENTS AND  
LAW SCHOOL GRADUATES ON THE BAR EXAM

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## SUMMARY

California's bar examination has three sections: a two-problem Performance Test (PT), a six-question Essay Test, and a 200-question multiple choice test (called the Multistate Bar Examination or MBE).

The studies described in this report were undertaken to determine whether the scores on these sections were mainly a function of knowledge and skills that applicants already had prior to entering law school or whether the scores were significantly affected by abilities developed during the period they were in law school.

This issue was investigated by giving various parts of the exam to students from four American Bar Association approved law schools who had satisfied all of their school's admission requirements but had only just begun their legal education (hereafter referred to as the "novices"). We then compared the scores earned by the 341 novices in this group to the scores earned by 1,061 recent graduates from the same four schools.

The major findings of this research were as follows:

- o Graduates earned substantially higher scores than the novices on every section of the exam. For instance, the highest novice MBE score was 60 points (almost 2 standard deviations) below the lowest graduate score.
- o The difference between graduates and novices was greater on the MBE and Essay than it was on the PT. Two factors may have accounted for this trend: (1) PT scores, and particularly when based on only one problem, are less reliable than total MBE or Essay scores; and (2) the nature of the PT allows novices more opportunity to do well as a result of general academic ability.
- o The chances that a novice would pass the bar exam are essentially nil. The novices' average total score was more than 300 points (4 standard deviation units) below the passing score of 1260.
- o There is absolutely no evidence that an examinee's MBE score is a function of chance or some generalized skill in taking multiple choice tests. The novices' MBE subtest scores did not correlate with each other, and their MBE total scores did not correlate with their scores on the Law School Admissions Test (LSAT). However, their LSAT scores tended to correlate with the Essay and PT scores. Moreover, there was a high correlation between MBE and LSAT scores in the sample of graduates.

Taken together, these findings help to debunk the myth that bar exam scores are mainly a function of chance or general test taking skills rather than legal education. Applicants to the bar who have relatively high levels of academic ability usually earn higher bar exam scores than other applicants. However, they do this only after attending law school.

## THE PERFORMANCE OF NOVICE LAW STUDENTS AND LAW SCHOOL GRADUATES ON THE BAR EXAM\*

### BACKGROUND

California's bar examination has three sections: a two-problem Performance Test (PT), a six-question Essay Test, and a 200-question multiple choice test (called the Multistate Bar Examination or MBE).

Critics of the bar exam often contend that scores on these sections are due mainly to extraneous factors rather than to legal knowledge and skills. For instance, they believe an applicant can earn a high MBE score simply by chance or being adept at taking multiple choice tests. Support for the latter possibility comes from the high correlation between MBE and Law School Admissions Test (LSAT) scores among applicants to the bar.

Similarly, some critics suggest that Essay and PT scores are primarily a function of general writing and reasoning skills instead of the specific abilities developed in law school. The PT is especially subject to this criticism because, like an open-book test, PT problems contain all the laws, case materials, and facts on which applicants are expected to base their answers.

### PURPOSE

The studies described in this report were undertaken to determine whether bar examination scores were mainly a function of knowledge and skills that applicants already had prior to entering law school or whether their bar scores were significantly affected by abilities developed in law school. In short, to what degree are PT, Essay, and MBE scores sensitive to the effects of legal education?

This issue was investigated by giving various parts of the bar exam to students who had satisfied all of their school's admission requirements but had only just begun their legal education (hereafter referred to as the "novices"). We then compared the scores earned by the novices to those earned by graduates from the same schools. If legal education significantly affects bar scores, then: (1) the graduates would tend to score higher than the novices and (2) none of the novices would pass. In this context, "legal education" is defined broadly. It includes not only law school courses, but also summer work experience, bar review courses, and other opportunities to develop legal skills and knowledge.

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\*The staff of the Committee of Bar Examiners, and especially Phil Schoner and Jane Peterson Smith, assisted in conducting this research. The study also could not have been done without the cooperation of the four schools that participated.

## PROCEDURES

Four American Bar Association approved law schools participated in the study: McGeorge, University of California at Los Angeles (UCLA), UC-Hastings, and the University of Southern California (USC).

At the beginning of the fall 1985 term, the dean at each school sent a notice to all first year law students (see Appendix A). This notice invited the students to participate in a research project sponsored by the California Committee of Bar examiners. The notice advised students the test session would be held on Saturday, September 7. It informed them they would be asked to provide the researchers with their age, sex, racial/ethnic group, and educational history. They were further advised that they would be asked to sign a form that permitted their school to release their LSAT scores to the researchers. And finally, they were told that they would be paid \$50.00 for participating and making a good faith effort in the three hour test session, and that additional cash prizes would be awarded to the participants who earned high scores.

The novices who came to their school's test site were assigned randomly to five groups: A, B, C, D, or E. These groups corresponded to the following five parts of the July 1985 exam: PT Problem A, PT Problem B, Essay Questions 1-3, Essay Questions 4-6, and the first 100 MBE items.

After completing the background questionnaire (see Appendix B), the novices were given the same general directions as were used on the bar exam. For example, the novices in group E were told it was to their advantage to try to answer as many questions as they could. All groups were given three hours to answer their assigned questions. This is the same amount of time as that given regular bar exam applicants.

The answers written by the novices in Groups A - D were graded along with those written by the over 7,600 regular July 1985 bar applicants. And, there was no way a reader could determine whether a given answer was written by a novice or a regular applicant.

## SAMPLES

The procedures used to assign novices to groups worked well. Table 1 shows that all five groups had about the same number of novices. Table 2 indicates the groups also had similar mean LSAT scores and ages, percentages of female and Anglo students, and the percentage saying they had some previous legal training or experience (such as being a court reporter, police officer, legal secretary, or paralegal).

The only exceptions to these trends were that the novices assigned to Essay Questions 1-3 had a higher mean LSAT score than the other novices, and the MBE group had a higher percentage of female and minority students than the other groups. None of these disparities were significantly different than what would be expected to occur by chance.

Table 1

NUMBER OF NOVICES IN EACH COMBINATION OF SCHOOL AND GROUP,  
AND THE PERCENTAGE OF ALL NOVICES IN EACH GROUP

Group	Law School				All Novices	
	Hastings	McGeorge	UCLA	USC	Number	Percent
PT-A	20	17	14	15	66	19.4%
PT-B	23	18	16	16	73	21.4%
Essay 1-3	22	18	14	15	69	20.2%
Essay 4-6	22	18	14	14	68	19.9%
MBE	20	17	13	15	65	19.1%
Total	107	88	71	75	341	100.0%

Table 2

SUMMARY STATISTICS ON BACKGROUND CHARACTERISTICS FOR EACH GROUP  
OF NOVICES AND FOR ALL FIRST TIMERS FROM THE SAME FOUR SCHOOLS

Group	Mean LSAT	Mean Age	Percent Female	Percent Anglo	Percent Experienced
PT-A	36.4	25.1	42	89	20
PT-B	36.8	25.5	37	84	21
Essay 1-3	38.0	25.2	42	81	25
Essay 4-6	36.9	26.2	34	84	19
MBE	36.1	25.6	48	71	20
Novices	36.9	25.1	40	82	21
Graduates	36.7	*	41	84	*

\* Data on age and previous legal training and experience were not available for the 1,061 graduates.

The background characteristics of the novices paralleled closely the characteristics of the 1,061 graduates from their schools who took the California bar exam for the first time in July 1985 (hereafter referred to as the "graduates"). Table 2 also shows that the mean LSAT score for all novices was essentially the same as the mean LSAT score for the graduates. However, both means were higher than the mean for all July 1985 first timers (34.66). Thus, if the novices' LSAT scores are correlated with their bar exam scores, then their mean bar scores are likely to overestimate the means that would have been obtained with a random sample of all novice first-year law students.

The percentages of female and minority novices from the four schools were very similar to the corresponding percentages for their graduates. And, the two schools with the largest number of novices also had the largest number of graduates. These findings and the similarity of novice and graduate LSAT scores permits making direct comparisons between their bar exam results; i.e., there is no need for statistical adjustments for case mix.

### PT RESULTS

In PT Problem A, candidates were required to draft a letter counseling a client. In PT Problem B, they wrote a statement of legal theory and a memo describing a plan for discovery. Each PT answer was graded in 5-point intervals on a 0 to 100 point scale with a score of 70 considered as just passing.

The distribution of novice scores on PT problem A was essentially identical to the distribution of their scores on problem B. And, the distribution of the graduates' scores on PT problem A was essentially identical to the distribution of their scores on problem B.

However, as Figure 1 illustrates, the graduates tended to score substantially higher than the novices. In this and the subsequent figures in this report, the top horizontal array of data is for graduates and the bottom one is for novices. In each array, there are five vertical bars. Reading from left to right, these vertical bars correspond to the 10th, 25th, 50th (with an asterisk), 75th, and 90th percentile points in the distribution of scores. For instance, Figure 1 shows that only 10 percent of the graduates had scores of 60 or lower whereas 50 percent of the novices had scores of 60 or lower.

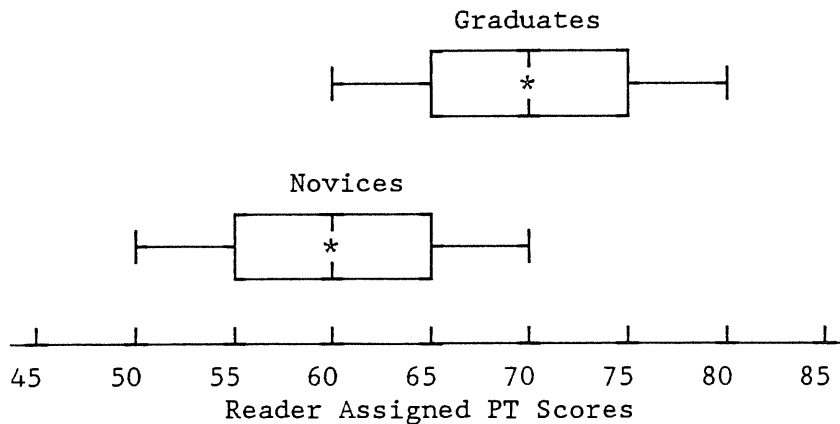


Fig. 1: The 10th, 25th, 50th, 75th, and 90th Percentile Points in the Distribution of Graduate and Novice PT Scores

Despite the 10 point difference in average PT score between novices and graduates, some of the novices scored higher than some of the graduates. In addition, on both problems A and B, 14 novices had passing scores. However, no novice received a PT score greater than 75 whereas more than 15 percent of the graduates had scores over 75. Moreover, because of the generally low correlation between problems, the amount of overlap between novices and graduates on one PT problem overestimates the overlap between them in total PT scores (this statistical trend is illustrated in the discussion of Essay results).

The novices' LSAT scores had low positive, but not statistically significant correlations with their scores on both problems A and B ( $r = .11$  and  $.20$ , respectively). Prior legal training or experience was not correlated with problem A scores, but was positively correlated with problem B scores ( $r = .29$ ).

### ESSAY RESULTS

Each Essay answer was graded in 5-point intervals on a 0 to 100 point scale with a score of 70 considered as just passing. Not one novice received a passing score on any of their over 400 essay answers.

Figure 2 shows the distribution of novice and graduate scores on a typical question. These data indicate that the top 10 percent of the novices' scores does not even come close to the bottom 10 percent of the graduates' scores. A comparison of these data with Figure 1 shows there is far more overlap between novice and graduate PT scores than there is in their Essay scores.

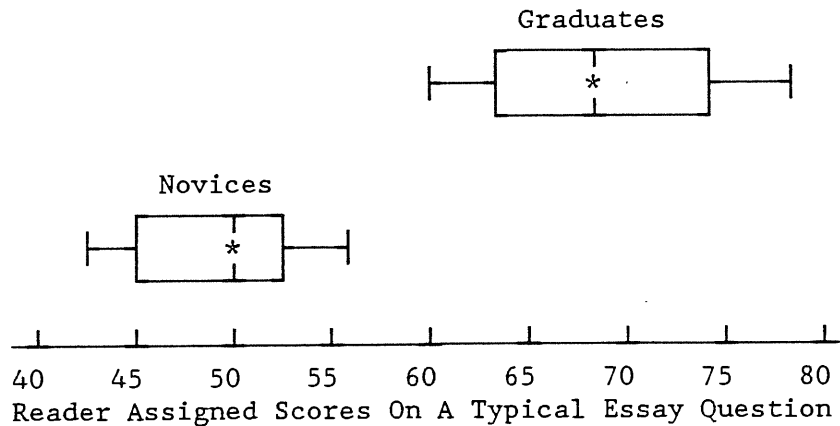


Fig. 2: The 10th, 25th, 50th, 75th, and 90th Percentile Points in the Distribution of Graduate and Novice Scores on a Typical Essay Question

Figure 3 shows the difference between novice and graduate essay scores increased when the comparison is made between their respective mean scores over three questions. For instance, 95 percent of the graduates had a higher three-question mean essay score than the highest mean essay score among the novices (60). These data indicate that the difference between novices and graduates would be even greater if the comparison was made between their respective average scores over all six questions.

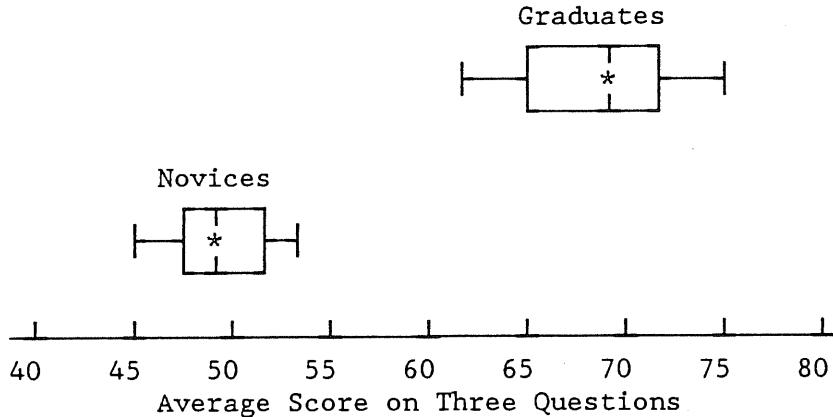


Fig. 3: The 10th, 25th, 50th, 75th, and 90th Percentile Points in the Distribution of Graduate and Novice Scores on the Average of Three Essay Questions

In both Group C and D, the novices' score on one essay question were not highly correlated with their scores on the other two questions (mean inter-question correlations were .12 and .10, respectively). However, the corresponding correlations for graduates among questions 1-3 and 4-6 were only slightly higher (.16 and .22, respectively). These data suggest that for both novices and graduates, factors other than general writing ability or style are the major determiners of the score on a given essay question.

Some of these factors appear to be related to the abilities measured by the LSAT. Among novices, LSAT scores correlated .27 and .20 with the average score on questions 1-3 and 4-6, respectively. The corresponding correlations among graduates were not much higher (.34 and .30).

#### MBE RESULTS

The Multistate Bar Examination (MBE) contains 200 multiple choice questions (or "items"). An examinee's raw score is the number of items answered correctly, i.e., there is no correction for guessing. MBE raw scores are converted to scale scores so that a given scale score indicates the same level of proficiency regardless of the particular administration of the exam on which it was earned. The July 1985 formula for converting total raw scores to California scale scores was: California MBE Scale Score = 65.695 + 2.784 (MBE Total Raw Score)



The MBE's items cover six content areas: Evidence, Criminal Law, Constitutional Law, Torts, Contracts, and Real Property. The items are divided into a morning and afternoon session with 100 items per session. All six content areas are covered in each session; e.g., there are just as many Evidence items asked in the morning as there are in the afternoon. And, as a result of this balance, there is a very high correlation between morning and afternoon MBE raw scores.

These and other considerations led us to use only the items from the morning session for this study. However, in the national population of all July 1985 examinees, the AM session mean was 2.2 points higher than the PM session mean. Thus, a novice's California MBE scale score was estimated using the following equation:

$$\text{Estimated MBE Scale} = 65.695 + 2.784 [(2)(\text{AM Raw Score}) - 2.2]$$

Historically, a California MBE scale score of 420 or higher was considered passing. Almost 80 percent of the graduates had MBE scale scores over 420 whereas none of the novices came within 60 points of this score. The tremendous difference between novice and graduate MBE scores also is illustrated by the fact that 98 percent of the graduates had MBE scores higher than the highest novice MBE score (355). Figure 4 further illustrates the lack of overlap between the distribution of novice and graduate MBE scores.

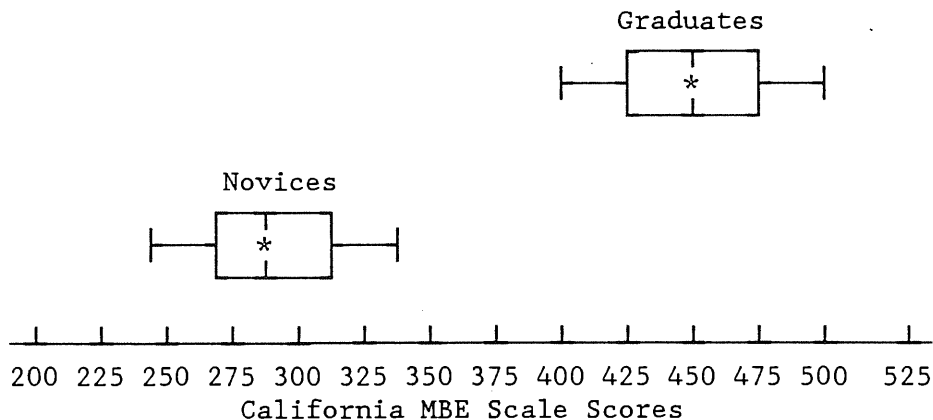


Fig. 4: The 10th, 25th, 50th, 75th, and 90th Percentile Points in the Distribution of Graduate and Novice MBE Scale Scores

The extremely large difference between the distributions of novice and graduate MBE scores also was exhibited in the subtest scores. For instance, the novices' mean score on an MBE subtest generally fell below the first percentile in the distribution of the graduates' scores. The only exception to this trend was on the Criminal Law subtest where the novices' mean score was at the ninth percentile in the distribution of graduates' scores.

If an examinee's MBE score is heavily dependent upon general skills in taking multiple choice tests, then the novices who scored relatively well on the LSAT (a multiple choice test) also should have done relatively well on the MBE. This did not happen. There was a very low and not statistically significant correlation between the novices' LSAT and MBE scores ( $r = .09$ ) whereas there was a high correlation between LSAT and MBE scores among graduates from the same schools ( $r = .54$ ).

Similarly, within the first 100 MBE items, the average correlation among subtests was .25 among graduates but only .06 in the sample of novices. The latter correlation also was much lower than the correlation between the novices' LSAT and average scores on three essay questions ( $r = .24$ ). And, the novices' mean raw score on the first 100 items (42) was only 17 points higher than the mean that would have been obtained if they had just been guessing randomly. Taken together, these findings contradict the belief that MBE scores are affected greatly by some hypothesized skill in taking multiple choice tests.

#### TOTAL SCORES

The total score on the California bar examination is the sum of the examinee's MBE scale score, six essay question scores, and three times the sum of the examinee's two PT scores. Applying this formula to the novices' mean scores on the various sections suggests that the typical novice would earn a total score of 952 (see Table 3).

A total exam score of 952 is substantially (four standard deviations) below the 1260 that is required for passing. Thus, it is exceedingly unlikely that any novice would pass the exam. The novices' estimated total mean score was almost 350 points below the graduates' mean total score (1291). No graduate had a total score below 1020.

#### BACKGROUND CHARACTERISTICS

Table 4 shows that with the possible exception of LSAT scores, there was no consistent relationship between the novices' bar scores and their background characteristics. For instance, self reported previous legal training or experience was not correlated with novices' total MBE scores (or with any of their MBE subtest scores). Race, sex, and age also were not correlated with their bar scores. The novices' LSAT scores were not correlated with their previous legal experience, but their LSAT scores were negatively correlated ( $-.17$ ) with age; i.e., younger novices tended to earn slightly higher LSAT scores than older novices.

Table 3

TOTAL AND PART SCORE MEANS AND STANDARD DEVIATIONS

Section	Mean Score		Standard Deviation	
	Novices	Graduates	Novices	Graduates
PT-A x 3	181.59	216.18	31.38	21.24
PT-B x 3	181.65	213.03	22.02	20.64
Essay 1-3	146.96	203.76	12.72	15.59
Essay 4-6	148.03	208.03	11.73	16.46
MBE Scale	294.18	450.32	31.23	39.14
Total	952.41	1291.33	*	76.94

\* The standard deviation of the novices total score could not be estimated from the available data. The especially large standard deviation for novices on PT-A was due to one novice receiving a score of 0.

Table 4

CORRELATION BETWEEN BACKGROUND CHARACTERISTICS AND BAR EXAMINATION SCORES IN THE SAMPLES OF NOVICES AND GRADUATES

Type of Bar Exam Score	LSAT Score		Being Female		Being Anglo		Having Had Previous Experience
	Novcs	Grads	Novcs	Grads	Novcs	Grads	
PT-A	.11	.16*	-.02	.03	.11	.12*	-.14
PT-B	.20	.28*	-.20	-.06	.01	.18*	.29*
Essay 1-3	.27*	.34*	-.04	.02	-.03	.18*	.09
Essay 4-6	.20	.30*	-.11	.00	-.02	.16*	.12
MBE Scale	.09	.44*	.13	-.14*	-.08	.29*	-.04

\* Significantly different than zero at alpha = .05 (note that because of the differences in sample sizes between novices and graduates, the same correlation coefficient could be significant for graduates, but not for the novices). Data regarding self reported previous legal training or experience were only available for novices.

## CONCLUSIONS

All three sections of California's bar examination (PT, Essay, and MBE) are sensitive to the effects of legal education. In other words, on all three sections, the law school graduates scored higher than the novices. However, the difference between graduates and novices was greater on the MBE and Essay than on the PT.

MBE and Essay scores may have been more sensitive to the effects of legal education than PT scores because of differences in the reliabilities of these scores; i.e., MBE and Essay scores are more reliable than PT scores. The greater overlap between novices and graduates on the PT also could be due to the PT providing the applicant with all the data on which the answer is to be based.

It is highly unlikely that a novice could pass California's bar exam. None of the novices came close to receiving a passing score on the MBE or Essay sections. Although about 20 percent of the novices earned a passing score on one PT problem it is highly unlikely that a novice would earn a passing score on the sum of two PT problems. And, even if a novice did earn a passing grade on the entire PT, there is essentially no chance that this passing grade could offset the novice's almost assuredly low Essay and MBE scores.

There was no indication that written or multiple choice scores on the bar exam were significantly affected by general test taking skills as distinct from specific legal knowledge and abilities. For instance, there was almost no correlation between the novices' scores on one essay question and their scores on another essay question. And, there was essentially no correlation among their MBE subtest scores.

The low, but consistently positive correlations of LSAT scores with the novices' and the graduates' PT and Essay scores suggests that scores on these sections may be related to an examinee's general intellectual or academic ability.

In summary, this study helps to debunk the myth that bar exam scores are a function of chance or general test taking skills rather than legal education. Applicants to the bar who have relatively high levels of academic ability (as indicated by their LSAT scores) will generally earn higher bar exam scores than other applicants. However, they will do this only after attending law school. And, the probability is essentially nil that any novice would even come close to passing the entire exam.

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GENERAL INFORMATION REGARDING SEPTEMBER 7 RESEARCH PROJECT

First-year law students are being recruited to participate in research sponsored by the California Committee of Bar Examiners. Five test instruments will be administered on Saturday, September 7, from 9:00 a.m. to 1:00 p.m. Participants will be compensated \$50 for answering one 3-hour examination, making a "good faith effort" to score well, and completing a brief questionnaire. Additional cash prizes will be awarded to participants who earn high scores on the research examinations.

Participants will be asked to provide the following kinds of information about themselves: birthdate, sex, racial/ethnic group, undergraduate institution, undergraduate major, prior law-related experience. For purposes of payment, participants will provide their social security numbers and current addresses.

Each participant will be asked to sign a release permitting his or her law school to release LSAT scores and grade averages to the Committee. This information will be used solely for purposes of research and will not be known by anyone associated with the grading of the California bar examination.

No one who grades the California bar examination will have any way of knowing who participated in this study or what scores were earned. Eventually, the Committee may compare performance on this research examination with performance on an actual California bar, but no participant will be identified individually in any report involving any analysis of the data gathered on September 7.

jps/5 B0685

SEPTEMBER 7 RESEARCH PROJECT -- QUESTIONNAIRE

(1) Name: \_\_\_\_\_  
last first

(2) Address: \_\_\_\_\_  
street  
\_\_\_\_\_  
city ZIP

(3) Law School: \_\_\_\_\_

(4) Have you seen the July 1985 California bar examination or discussed its contents with anyone? \_\_\_\_\_  
yes no

IF YES, YOU MUST TAKE RESEARCH TEST E.

(5) Form of test you are taking: \_\_\_\_\_  
A B C D E

(6) Social Security Number: \_\_\_\_\_

(7) Sex: \_\_\_\_\_ (8) Date of birth: \_\_\_\_\_  
1.male 2.female month day year

(9) Ethnic group:  
\_\_\_\_ 1.American Indian \_\_\_\_ 4.Indian sub-continent \_\_\_\_ 7.Black  
\_\_\_\_ 2.Filipino \_\_\_\_ 5.Asian \_\_\_\_ 8.White  
\_\_\_\_ 3.Pacific Islander \_\_\_\_ 6.Hispanic

(10) Undergraduate institution: \_\_\_\_\_

(11) Undergraduate major: \_\_\_\_\_

(12) Any previous legal training or experience (such as court reporter, police officer, legal secretary, paralegal)? \_\_\_\_\_  
yes no  
If yes, please describe: \_\_\_\_\_

I authorize my law school to release information regarding my LSAT score and law school grades to the Committee of Bar Examiners for purposes of research.

\_\_\_\_\_  
Signature