

## FROM BOTH SIDES NOW: THE JOB TALK'S ROLE IN MATCHING CANDIDATES WITH LAW SCHOOLS

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### ABSTRACT

IN the heavily competitive law school teaching job market, the so-called “job talk” has assumed increasing importance in the ultimate hiring decision. Nevertheless, there is little published information to assist a law school faculty in structuring or evaluating the job talk. Similarly, a paucity of information exists to guide candidates in creating and preparing for the presentation of their talk. This article is intended to fill that void. The article guides the preparation of faculty and candidates for both the job talk itself and for the crucial Q & A period that follows the talk. The article represents the authors’ collective 87 years of experience seeing both successful and unsuccessful job talks, as well as the experience of 15 colleagues around the country who reviewed our initial draft and commented on it from the perspective of their various law schools.<sup>1</sup>

Faculty hiring in the legal academy is a bit like a mating ritual: When it is successful, it culminates in a union that may last for a lifetime.<sup>2</sup> And like most

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2. In her article about the law school hiring, Professor Debra R. Cohen used a matchmaking metaphor to describe the process of finding the right combination of law school and candidate. Debra R. Cohen, *Matchmaker, Matchmaker, Make Me A Match: An Insider’s Guide to the Faculty*

mating rituals, it is a high stakes enterprise for both parties, in this case, the law school and the candidate. The law school is assessing whether the candidate will be a good fit, factoring in its curricular needs and diversity in the broadest sense<sup>3</sup>; whether the candidate will further the mission of the school<sup>4</sup>; whether he or she will engage in meaningful scholarship; whether he or she will bring intellectual rigor and teach effectively; and whether he or she will be a good colleague and institutional citizen. The candidate is making a similar assessment. He or she is looking for a good institutional fit, which includes the right teaching package; support for scholarship; pedagogical freedom and teaching support; and a collaborative, collegial, and intellectually stimulating community.

In situations where the position is tenure-track, the stakes are especially high because the assessment must include a prediction: Will the candidate meet the institution's tenure standards in six years? Even in situations where the open position is not tenure-track, such as some legal writing, clinical, or academic support positions, some faculties nonetheless look for the same level of intellectual firepower as for tenure-track hires. Perhaps faculties approach these positions with such rigor because they are thinking ahead about a candidate's tenurability in case the position becomes tenure-track in the future. In short, because tenure is the possibility of a job guaranteed for life ("until death do us part"), both sides must determine whether there is a "match"—whether the fit is one that can last over the course of the candidate's career.<sup>5</sup>

Once the courting process has begun, the relational stakes are high regardless of the actual hiring outcome. On the one hand, even if the courtship ends in a non-match for one law school, many applicants who are in play will find a match at another law school. The legal academy is insular and small. Chances are that both parties will see each other at national conferences, so it is important that during the courtship parties remember to treat each other with respect and good manners. The impression made during courtship strongly shapes opinions and reputations. On the other hand, if there is a match and an offer is made and accepted, both parties have committed to a long engagement, followed by a marriage.

Despite the stakes being this high, the hiring decision is made on limited information, which makes it imperative that this information be of the highest quality possible. The law school has the candidate's AALS form, resume, cover letter, earlier publications (if any), reference letters, a brief screening interview (usually at some national hiring conference), and the call-back visit where the candidate will meet with faculty in small groups and then present the "job talk." The candidate has some general knowledge about the law school and the

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Hiring Process (Sept. 21, 2006) (unpublished manuscript), available at [http://papers.ssrn.com/sol3/cf\\_dev/AbsByAuth.cfm?per\\_id=681111](http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=681111) (last updated May 12, 2010).

3. In the realm of law school hiring, diversity includes diversity in intellectual perspective, as well as diversity based on race, gender, ethnicity, sexual orientation.

4. For example, the mission of Seattle University School of Law is to promote social justice. *The School*, SEATTLE UNIV. SCH. OF LAW, [http://www.law.seattleu.edu/The\\_School.xml](http://www.law.seattleu.edu/The_School.xml) (last visited Mar. 7, 2011).

5. Of course, many people do not stay at the same law school for their entire careers and may leave for a variety of reasons once they have earned tenure.

faculty's reputation, the institution's website and catalogue, national rankings, faculty publications, the screening interview, and the experiences from the call-back visit, including how the faculty conducted itself during the job talk. In this fast-paced hiring cycle—not unlike speed dating—the job talk has become what the family's consent was to marriages in the past, *i.e.*, a point late in the courtship that can make or break the possibility of a future relationship.<sup>6</sup>

Given that the job talk is now a key part of hiring decisions, it is surprising that few faculties seem to have given much thought about what the job talk is and how it is supposed to help both the institution and the candidate assess each other. Is the job talk like a continuing legal education presentation? An academic conference presentation? A work-in-progress presentation? A sample class? An oral argument? All of the above? Is the law school assessing candidates for their ability to teach, for their intellectual rigor and scholarly potential, or for both? Similarly, is the candidate assessing the faculty on the quality of the questions they ask during a job talk, or on the manner in which they engage a candidate about his or her ideas? What purpose does the job talk serve, and how is it different from the interviews?<sup>7</sup>

Most law school faculties have not been explicit about what qualifies as a good job talk. Instead, they seem to think of it somewhat like true love: They'll know it when they see it. Taking the time and making the effort to be explicit about what the faculty wants from job talks, however, greatly increases the odds that job talks will help identify those candidates a faculty wants to hire. A school that has thought through what it wants in a job talk will be able to tell candidates in advance what they are looking for, and therefore will be less likely to miss out on a good prospect simply because the candidate misread the situation or could not divine the wide-ranging or even contradictory expectations.

To enter the courtship ritual fully prepared, law schools and candidates need to ask themselves two fundamental questions: (1) What should a law school do to better prepare its hiring committee and its faculty to assess the job talk?; and (2) what should a prospective candidate do to prepare and deliver a job talk that shows the candidate in the best possible light at the law school(s) where he or she will have a successful career?

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6. One of our reviewers criticized what he saw as an unjustified emphasis on the job talk in evaluating candidates—an emphasis that tended to devalue actual career accomplishment and references from those who actually know the candidate's work. He also expressed concern that the exaggerated emphasis given to job talks gives unwarranted advantage to those who have been mentored for just such a presentation in so-called "visiting programs" or teaching fellowships.

7. One common problem that a faculty can address in advance is whether they want to discourage each other from asking about the job talk topic and thesis in the interview sessions, particularly those sessions that occur before the job talk is given. When candidates are asked, "So what is your talk going to be about?" they are put in an awkward position. Should they simply preview the talk with a bit of a tease to encourage the questioner to attend, or do they respectfully summarize the job talk? Should they try to deflect the faculty to the talk itself, or would that approach seem too evasive? While the brief preview approach is probably the better tactic from the candidate's perspective, the best solution from the law school's perspective may well be to have the faculty agree not to ask about the job talk until after it is given.

To address these questions, we will look at two aspects of the job talk: (1) preparing for and conducting the job talk; and (2) preparing for and conducting the Q & A session that follows the job talk. For each, we have provided both the faculty's perspective and the candidate's perspective because we believe that the two constituencies will benefit from thinking about both sides of the job talk question.

In developing this essay, our objective was to make it sufficiently general so as to apply to most law schools, yet to provide the reader with enough specificity to make it useful to both faculty and job candidates. In addition to the generic information about job talks, we have added a section at the end of the essay that addresses situations that present some special issues when the candidate is applying for a legal writing, clinical, or academic support position.

Beyond the issues related to the type of position, other issues may arise when the candidate is a member of an underrepresented group—especially in terms of race, gender, or sexual orientation. These issues are beyond the scope of this essay, but we do advise law schools to be sensitive to the issues that may be present and to explicitly address them. Further, we recommend that these candidates seek mentoring about the hiring process—job talks in particular—from members of the constituent groups.<sup>8</sup>

## I. PREPARATION FOR THE “JOB TALK”

### A. *Faculty: Preparing Itself and the Candidate*

Once a law school has decided that it needs to hire, the faculty hiring committee<sup>9</sup> should begin thinking about what kind of process is most likely to get the desired results. Rather than jumping into its usual hiring routine, a smart hiring committee will step back and analyze what has worked well in the past and what it might want to modify. As part of this analysis, the hiring committee might want to have the faculty talk together—without a specific candidate under consideration—about what they are looking for in the job talk. For example, the faculty might consider the following possibilities, recognizing that they are not mutually exclusive:

- Is the job talk primarily a window into a candidate's scholarly potential? In other words, is he or she thought-provoking? Does the candidate have interesting ideas? Will he or she contribute to the institution's scholarly reputation?
- Is the job talk primarily a way to calibrate a candidate's raw intellectual firepower? Is the candidate intellectually capable and

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8. In addition, the Association of American Law Schools has sections for many of these constituent groups, and the Society of American Law Teachers also provides support and mentorship. See *About AALS*, ASSOC. OF AM. LAW SCHS., <http://www.aals.org/about.php> (last visited Mar. 7, 2011).

9. In some law schools, the group responsible for initiating the hiring process is called the faculty recruitment committee or the faculty appointments committee.

competent, or bright with great potential, or brilliant and on the way to becoming an academic superstar?

- Is the job talk more about assessing teaching potential? Does the candidate have classroom presence? Can this person stand up in front of a room and hold people's attention? Is he or she engaging? Does the candidate know how to create a memorable presentation that people are still talking about the next day? Does the candidate display the more general skills underlying good teaching, such as being organized, articulate, interacting well with the audience, and using questions effectively? Does the candidate's teaching style mesh with the law school's expectations about teaching?
- Does the faculty have some expectations about the format for a good job talk, such as whether it should be like conducting a sample class or like presenting a paper at a conference? If so, what are they?
- Are there specific kinds of things the faculty does not want to see in the job talk, such as making the presentation interactive and calling on people?

We realize that while some faculties will reach a consensus about some aspects of evaluating a job talk, other faculties may not. It is natural that among a faculty composed of thoughtful, intelligent individuals there will be a range of opinion as to what factors to value in a job talk and how to weigh those various factors.

Such a conversation, nonetheless, will have a wide range of benefits. When it comes time to evaluate a talk, a faculty member's articulation of his or her own views (whether openly or just in the person's head) will make explicit what has until then been intuitive. Hearing others' ideas may expand or modify a person's own views. Also, at subsequent meetings on hiring we expect that faculty members will benefit from a more conscious set of evaluative factors, a shared vocabulary, and a better understanding of various faculty members' frameworks for evaluation. Since this discussion will also provide a more conscious understanding of the range of information being sought by faculty in the job talk, it may help assess and guide the direction of the Q & A session as it is happening. Finally, this open discussion of evaluative factors will give the hiring committee information about the job talk that they can then pass on to the candidates. This can be done informally, with the hiring committee chair sharing the information with each candidate. Ideally, however, the faculty should take a systematic approach to the discussion, with the school preparing a packet of information, including its expectations about the job talk, to send to each candidate.

This packet could give basic information about the school, explicit information about its expectations for faculty hires, and specific information about the type of position for which the candidate is applying (particularly if it differs from tenure-track, such as some clinical, legal writing, and academic

support positions).<sup>10</sup> In addition to the packet, the chair of the hiring committee ought to provide the human touch and be available to answer questions about the school, its history and working culture, its expectations for the hiring process, and the “do’s and don’ts” for job talk presentations.

*B. Candidate: Preparing Your “Job Talk”*

If the institution where you are applying has done its advance work, you should receive a fair amount of information about the school’s expectations for a job talk. In an ideal situation, you may even receive the kind of packet described above with the institution’s expectations for job talks explicitly articulated with a follow-up call to find out if the packet raised any questions for you. If you find yourself in that fortunate situation, rejoice, move that law school to the top of your list of prospective places of employment, and then read the packet as carefully as you would read a love letter.

Many schools, however, will not be this organized or explicit about their expectations. They may even believe it is your job to figure out what they want. No problem. In fact, you have the perfect problem-solving approach to use. Rather than use the mating ritual analogy that has served us up to now, we recommend switching to another familiar frame of reference: that of an attorney preparing a case. Thus, approach the job talk as though it were a case: (1) investigate and conduct discovery; (2) research; (3) create your theory of the case; and (4) moot your presentation.

As with most cases in practice, **step #1 is to investigate and conduct discovery**. Talk with your former professors about how job talks work in the law school setting. Additionally, talk with your peers about their job talk experiences while on the circuit looking for positions in the legal academy. Most importantly, talk with the hiring committee members, especially the chair, about how job talks work at their school. Be sure your conversation and questions touch on four main areas for discovery:

1. The Law School’s Format;
2. The Law School’s Culture;
3. Physical Dimensions; and
4. Technology.

1. *The Law School’s Format*

Knowing what a law school expects in terms of format is crucial.<sup>11</sup> How much time you have and when the audience will ask questions will affect a number of other decisions, such as what topics you can cover in the allotted time

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10. One reviewer had concerns about the practicality of creating such a packet, given that it would need to be modified depending on the particulars of each position.

11. One procedure we suggest that all schools adopt is to give candidates a half hour or so before their presentations in a quiet room so that they will be able to compose themselves and focus on the talk.

and how you will practice your presentation. Find out whether you will have a block of time for your presentation, such as 20 minutes, followed by questions and answers, or whether the job talk will be more like an appellate argument in which you can be interrupted with questions at any point in your presentation. If the Q & A follows your presentation, find out if you call on the faculty who have questions, or if a member of the committee serves as a moderator with this role. Be sure to ask whether you or the moderator needs to watch the time and wind up the session.

## 2. *The Law School's Culture*

Every institution has a history, and the hiring process is part of each institution's history. Even if a faculty has never gotten together to articulate what it expects from a job talk, most faculty members have had the common experience of a number of job talks that were generally considered successful or unsuccessful. This history has shaped the institutional expectations about what makes an effective job talk. As part of your discovery, ask about these expectations. In particular, ask about how thoroughly developed the faculty expects an idea to be at the time of your talk. Do they expect an already published piece,<sup>12</sup> a decent draft, or just a short synopsis? As to any of these alternatives, do they expect that your materials will be distributed to them in advance of your talk? If so, how many of them are likely to have read the materials before attending the job talk? Will they be open to a job talk based on an idea you have been working on if it is not yet in a first draft form? Lastly, find out how many faculty members are likely to attend.<sup>13</sup> It is easy to lose your energy if only 8 faculty members show up in a 60 person classroom, but if you know in advance to expect 8 (with others watching later on streaming video), then your preparation will adjust to focusing on 8 people.

Many law schools also have a culture when it comes to presentations details. As part of your discovery, ask whether this faculty likes and expects visuals—writing on the board, PowerPoint, video clips—or whether they are indifferent to, or possibly even loathe, visuals like PowerPoint.<sup>14</sup>

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12. One of our reviewers commented that at least one of his colleagues refuses to attend job talks about already published pieces because he can just read the article instead. Another reviewer suggested that in cases where schools say they are open to either a published piece or a work in progress, a candidate needs to consider the pros and cons of either approach. In her view, the good thing about a published piece is that the candidate knows it well and has thought through every angle. The bad thing is that the faculty has less room to explore new avenues with the candidate. On the other hand, a new piece allows lots of room for exploration, but the faculty might feel it is not yet developed enough and the candidate will not be as well versed as with a published piece. We suggest that a candidate have a candid conversation with the chair of the hiring committee about what type of work recent successful candidates have presented.

13. One of our reviewers said she tells candidates which faculty members are likely to attend and what kinds of questions those individuals are likely to ask.

14. Many articles have been written about the pros and cons of using PowerPoint generally, and it is beyond the scope of this essay to discuss PowerPoint's various advantages and disadvantages. Nevertheless, if you decide to use a PowerPoint as part of your article, review the literature about what makes an effective PowerPoint demonstration. Common problems such as

### 3. *Physical Dimensions*

Another area of discovery is the space where you will do your job talk. You can learn some of this well in advance; other aspects will have to wait until you are in the building and can ask your host or can see the space for yourself. Just like preparing for court, it is a good idea to see the room where you will present as soon as possible.<sup>15</sup> Walk around and get a feel for the space. At the same time, judge whether you will need a microphone to comfortably project in the particular room. Also, find out whether the school usually serves lunch to the faculty as part of a job talk event. If so, where will the food be set up, and will there be people going through a buffet line while you are presenting?<sup>16</sup> Find out whether someone will be introducing you. Also, determine whether you are supposed to begin as people get their food or wait until after they have finished eating.

### 4. *Technology*

As part of your discovery, be sure to ask what kind of technology you can expect and how it will be supported. If you want to use visuals on your laptop or on a thumb drive, what technological capabilities does the school have? Will there be a technical support person in the room to help you set things up or to jump in midstream if something crashes? Once on site, make sure you try out all the technological features before your talk. Smart candidates also have a backup plan in case of the inevitable technological incompatibility, malfunction, or crash. Bring along hard copy blow-ups or handouts of your PowerPoint and be ready to use the board to illustrate a point.

In addition, find out whether you will have a microphone, especially a clip-on microphone. Depending on the room and your particular voice projection, a microphone may not be needed, but it is still good to know the usual setup at that school. Finally, find out if you will be recorded and, if so, whether you will have to stand in a certain area of the room or whether you will be able to move around.

As with a case, once you have completed your initial investigation and discovery, you are ready for **Step #2: Do your research**. If you are somewhat unfamiliar with the world of the expert legal academic, an efficient way to get a feel is to read three or four articles from elite law reviews covering something in your field of practice. You will quickly see that academics can ask a much broader and often different range of questions than practitioners (because they do not have to bill anyone for their work and thus the constraint of only working on something that has immediate instrumentality does not apply). While cases,

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putting too many words on the slides or using a color or typeface size that is hard to read can seriously undermine an otherwise effective job talk.

15. Many law schools hold their job talks in a classroom, but others use faculty lunch rooms, lounges, or other informal settings that do not have technology or chalkboards. Most expect the speaker will be standing, but some have the speaker seated.

16. One of our reviewers commented that at least one law school expects the candidate to eat while he or she is presenting the job talk.



statutes, and regulations have a place in the world of the legal academic, so do political philosophy, psychology, economic theory, linguistics, literary theory, pop culture, and the like. Understanding this breadth, you will be ready to think about both your topic choice and perspective.

*Topic choice.* You want an interesting topic, right? You want a topic that the faculty will eagerly discuss long after your presentation is over (these are, after all, people who love ideas; that is why they are law professors).<sup>17</sup> Of course, your knowledge base also limits your topic choice. Thus, you should choose a topic on which you wrote, are in the process of researching and writing, or one with which you gained familiarity through your lawyering experience. But take heart: No matter how superficially sexy or dull a topic may seem, the reality is that there is no topic that cannot be made boring, on the one hand, or fascinating on the other. That is to a large extent a function of presentation perspective.<sup>18</sup>

*Presentation perspective.* Here, we are not discussing the importance of presentation fundamentals. Of course, you have to be authentic and present a *carefully organized, well-researched, well-considered topic*. Additionally, you must *maintain eye contact* and present with some *enthusiasm*.<sup>19</sup> That is a given. In the job talk context, however, presentation perspective is the key: What is your thesis about the topic and from what perspective, lens, or theory are you approaching the topic in support of your thesis? In concrete terms, this means the following:

- You must have a clear thesis for your presentation, which you should present near the beginning of the talk.
- You will only have enough time to make a few good points, but you must demonstrate a good grasp of the broader literature. If your topic is very specialized, make certain you make it accessible to faculty members not familiar with the area; in the process, you avoid frustration on their part while demonstrating your ability to communicate complex ideas clearly to non-experts (*i.e.*, students).
- At most schools, you can base your talk on some experience from practice,<sup>20</sup> but make certain your perspective is analytical or

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17. If you have selected a topic that may be not only controversial, but also divisive, be aware of the considerable risk you are taking. While it is your job talk, we would discourage you from presenting a thesis such as "child pornography should be protected by the First Amendment" or "there can be no rape within marriage."

18. If you are applying for a position to teach a particular course such as Contracts, it may be wise if the topic of your presentation is in that area. See Cohen, *supra* note 2, at [20] (asserting that "if you're interviewing for a criminal law position and have a civil procedure article and a criminal law article, present the criminal law article").

19. One review commented that expectations have risen for the polish of the presentations, the completeness of articles, and for articles that will be in advanced stages of propounding a "creative" new idea.

20. One reviewer noted that at her school the faculty has no interest in tying practice to theory. Job talks at that school were expected to be pure theory, and successful applicants typically had a Ph.D. in addition to a J.D. Again, the smart candidate will do discovery and find this out in advance.

conceptual. Description and narrative are insufficient, although stories and insights about the inner workings of some area of law will no doubt be interesting (and perhaps even reveal the high level of sophistication your practice encompassed). Ultimately, however, you must tie your insights to some more abstract or general set of principles or theories.

- You should approach the topic from your strength (*i.e.*, your expertise; what you know from your practice experience). Academic scholarship is less about audience than it is about author. It is a domain where the author has the status and freedom accorded an expert (in contrast to the far more restrictive conventions for publications by students on law review). For example, imagine you have practiced for years in the oil and gas field. The thesis you wish to present is that a widely accepted, and apparently completely reasonable, doctrinal principle in the field does not work as imagined. Because of the peculiarities of the actual structure of the market and the businesses involved, the doctrinal principle turns out to manifest itself in counterproductive ways. Now think: How do you know this and why do you care? No doubt you have been engaged in extensive research relevant to your thesis, but much of your knowledge and insights will have come from personal contacts with players in the field and what you have witnessed firsthand as an expert in the area. If you frame your choice of subject and your thesis around your hands-on experience, *i.e.*, your expertise, your ideas will have increased validity. You will be in a much better position to *control* the discussion of your theory or your application of existing theories by reference to your experience (while, if possible, your research will confirm that your experiences are not idiosyncratic).
- If you are in a presentation format where you are given 20-25 minutes for your presentation, make certain that you finish within the allotted time. You will risk annoying your audience if your talk runs over and cuts into the time for questions.
- You need a clear, definitive ending.

**Step # 3: Create your theory of the case.** You want a job offer, so you must see the job talk as a means to an end. Good trial attorneys use the term “case theory” to describe their plan for achieving their ultimate goal, a persuasive narrative within the applicable doctrinal standards. The “doctrinal standard” applied by the fact finder (*i.e.*, faculty) in the job seeking process is rather simple and straightforward: Hire the people who will best serve the interests of the school as teachers, scholars, and colleagues. The narrative you must develop through your job talk to persuade the faculty that you meet this doctrinal standard involves a bit more complexity. If the job talk were directly analogous to a presentation in court, you would argue and marshal evidence directly supporting the claim that you are the teacher, scholar, and colleague the school is seeking. But in the academic job talk, you cannot tell that story directly (as you can in a

group interview session). Rather, you must present your case theory narrative through the medium of a discussion about a totally different and, in fact, completely unrelated topic (*e.g.*, whether laws against aggressive panhandling violate the First Amendment). So as you plan to tell your tale about free speech and street beggars to the faculty, understand that though it is good to present the topic with passion and conviction, the actual story you are really trying to communicate is about you as a teacher, scholar, and colleague.

The faculty will have questions about you in each role: as a *teacher* (Are you prepared? Are you organized? Do you know your sources and underlying literature? Do you listen to questions carefully and answer questions with clarity? Are you comfortable when interacting and "working the room?" Does your teaching style mesh with the expectations at that school?), as a *scholar* (Do you have ideas? Have you reasoned through the strengths and weaknesses of your position? Can you understand and provide plausible answers to pointed questions? If you have provided a published article or draft, is it clear and well written, well reasoned, and carefully researched?), and as a *colleague* (Do you show enthusiasm for ideas? Are you interesting? Are you respectful and sincere in responding to questions?).

**Step #4: Moot your presentation.** Once you have a good working draft of your presentation, it is time to think about practicing it. Ideally, you do not want to practice alone. Locate a few law professors who will agree to "moot" your presentation. If you are currently at a law school in a fellowship or LL.M program, finding a professor or two to give an hour of time (presentation, moot questions, and critique combined) to moot you should be no problem. But what if you are currently in practice? Consider contacting a favorite former professor (ideally in the subject area of your presentation), and ask him or her to help.<sup>21</sup> Even if you do not have access to people who have had experience with job talks as part of the law school hiring process, it is still important to practice your presentation in front of a live audience of people who are as close as possible in age and background to the real audience you must impress.

If you are mooting before a group of law professors, allow them to come up with questions for the Q & A that they consider representative of the type you are likely to get. If you are mooting before a group that is not part of the legal academy, consider giving them some sample questions that you think you might be asked so that you can practice delivering your answers.

Mooting will (1) help you get ideas about refining the content, structure, and delivery of your presentation; (2) help you test whether your presentation will fit into the allotted time; (3) give you a sense of the types of questions you may be asked; and (4) afford experience in answering questions. In an ideal mooting situation, you are likely to get useful critiques and suggestions about how you can improve on your presentation and your answers to questions. Even in a less-

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21. If you and the professor are in different parts of the country, send a video of the presentation and do the Q & A and critique by phone, or consider using Skype.

than-ideal mooted situation, you will get a better sense of what works and what needs changed.<sup>22</sup>

## II. PREPARING FOR AND CONDUCTING THE Q & A

### A. *Faculty: Clear Goals and Productive Use of the Q & A Segment*

As part of the faculty discussion on job talks, it makes sense to include the Q & A session that follows the job talk. In that discussion, we suggest focusing on how best to use the Q & A to obtain some or all of the following information about the candidate:

- Whether this person will make an interesting colleague who is willing to engage in lively debate about ideas;
- How well the candidate thinks on his or her feet;
- Whether the candidate can withstand close scrutiny of his or her ideas and research; and
- How this person will handle student questions when teaching class.

Knowing what the faculty hopes to learn about a candidate from the Q & A session can also determine how a law school structures that part of the job talk. Perhaps the most important decision here is whether members of the audience can interrupt the candidate's presentation with questions,<sup>23</sup> or whether there is a designated period after the presentation for Q & A. The former approach more closely resembles the classroom, in which students may interrupt a professor with a question as it occurs to them. It allows the faculty to see how the candidate handles a break in the flow and whether the candidate can still maintain an organized and coherent presentation. Since the former approach makes controlling one's time and focus more difficult, it is probably the tougher approach from the candidate's point of view.

The latter approach—questions held for the end—more closely resembles the expected format for many conference presentations. It allows the faculty to focus first on whether the candidate has a significant thesis supported by persuasive theory and argument and whether the candidate can create a well-organized, engaging presentation before turning to the issue of how well the candidate handles questions.

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22. Lucinda Jesson, *So You Want to be a Law Professor*, 59 J. LEGAL EDUC. 450, 452-53 (2010) ("I never was a moot court fan while in practice, but I wish I had "mooted" my [job] talk before someone besides my fourteen-year-old. I suggest mooted yours before a few law professors.").

23. Most law schools do not include students in the audience for job talks. If students are included, the faculty should decide in advance whether students should also be allowed to ask questions.

*B. The Candidate: Effective Q & A Strategy*

Like preparing for a motion or appellate argument, you should begin thinking about challenges to your position throughout the entire process of preparing your job talk. Keep a list of potential challenges and work on your answers. Mooting will add to the list of specific questions for which you must prepare, as well as give you some sense of the topical range of questions that would never be pursued in court, but are fair game in the legal academic arena.

As in court or other settings where the presenter should anticipate questions, it is crucial to understand the judge or questioner (here the faculty). Accordingly, look at your job talk from the perspective of the highly intelligent, inquiring minds of your prospective audience. What are the kinds of questions you can anticipate they will ask? Are there underlying assumptions or premises that they are likely to question? How would a skeptic poke holes in your thesis or the way you support it? If the presentation is based on an empirical study, is someone likely to question the study's methodology and if so, how will you defend it? What are the consequences of what you learned in the study? Again, make a running list of the questions you think they may ask, especially the questions you would dread being asked.

Remember as you do this that there are likely to be one or two people in the audience who are well versed in the specific area that you are addressing in your presentation, and it is even more probable that the majority of the audience will have only a passing knowledge of that specific area. You can expect to get very different types of questions from these two groups. The few experts in the area are more likely to ask whether you have considered how other experts' work or theories affect your thesis. It is also quite natural that their own scholarship in the area will influence their questions. The best preparation for their questions, of course, is to read their work before engaging with them in the Q & A.

The questions from the other group in the room—the ones with general knowledge about your topic but specific interests of their own—are likely to focus more on the practical: Who is most likely to benefit from your thesis, who will be harmed, who will pay for this, and of course, taken to its extreme, how will you guard against the parade of horrible outcomes any naysayer could generate? Remember that professors are skilled at creating hypotheticals, so expect that one or more of them will construct a hypothetical that puts your ideas to the test.

Remember too that this second group of folks will often take their own area of expertise and apply its principles to your thesis. They work and think in a specific context (Civil Procedure, Environmental Law, Tax, and so on), so they will be inclined to ask questions about how their specialty intersects with your ideas. Further, many of them are grounded in a particular type of jurisprudence, so expect them to ask questions from those perspectives (law and economics, feminist jurisprudence, critical race theory, or any number of others).

Overall, then, the following Q & A strategies are very similar to those you use in court or any other formal setting:

1. Listen carefully to the question (if needed, rephrase to make sure you understood what was asked).
2. As in court, the pressure may incline you to speed up and answer questions almost before the questioner finishes. Instead, when the pressure is greatest, pause, breathe, and slow down.
3. Do not dodge or evade questions, because it will be obvious.
4. If you do not know, say so. Never just make something up. Remember, you are auditioning to be an academic. Therefore, if you are asked how you would analyze your topic under feminist theory, it is fine to say, "I don't know. That is a good question and I am going to think about that." Then, take out your tablet and write down the question. You could even respond, "I don't know much about that; could you tell me more? Are there any particular sources you would recommend?" Again, take out your tablet and write down the response. In fact, this type of response works for even what seem like off-the-wall questions (*e.g.*, after a presentation on international trade agreements you are asked, "Do you think the archetypal themes in German folk tales may give some insight into the origins of these doctrinal solutions?").
5. As in oral argument, where some judge may be trying to "help" you, here too (especially if you are presenting a work-in-progress) the majority of comments will be made with the primary purpose of helping you improve your piece. Take the questions in this spirit.
6. If someone makes a speech in which several questions are embedded, write them down so you will remember them, and then do your best to answer each one.<sup>24</sup>
7. Be polite and respectful. You never win a fight with a hostile and unfair judge in front of a jury, but if you treat the judge with civility, that person's unfairness will be evident to the fact finders. The same is true for a rude (or in rare cases, hostile) faculty member. In the same vein, never be defensive and never show, even with your body language, impatience with or criticism of an off-the-wall remark.

While the oral argument or courtroom analogy can be helpful with some aspects of the job talk Q & A, the following few points about job talk Q & As do not have a law practice equivalent:

1. Do not take questions from only one group in the room. If there are many hands up, be sure to mix things up a bit and take questions from junior and senior faculty, men and women, faculty of color, and so on.
2. Do not spend so much time answering just one or two questions that no one else in the room has a chance to ask a question.
3. Do not tell a questioner that the answer is in the longer article you have written about the topic. Refer to your article and then do your best to briefly summarize for him or her.

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24. One of our reviewers reported that at his school, the average question took three minutes, while he once clocked a question as lasting eight minutes.

4. Have fun with the Q & A. Show enthusiasm for this exchange of ideas because you are proposing to enter into a world where the joy and significance of ideas and the intense interchange of ideas among all members (faculty and students) rests at the center of the enterprise.

### III. JOB TALKS FOR DIFFERENT FACULTY ROLES: LEGAL WRITING; ACADEMIC SUPPORT; CLINIC/SKILLS TRAINING

While the discussion up to this point applies equally to all law school job talks regardless of the position, there are some candidates and positions for which some additional specialized advice seems needed. Accordingly, in this section we provide information for candidates of Legal Writing, Academic Support, and Clinic/Skills Training positions.

Faculties at an increasing number of law schools recognize the ongoing professionalization of legal writing, academic support, and clinical faculty. As a result, these faculties are more involved in hiring these colleagues. In addition, in many cases the hiring decisions are now made by the full faculty using a process similar to that of doctrinal law faculty positions, which includes the job talk.

Job talks for these candidates have all the intriguing aspects of any other garden variety job talk, as well as a few issues unique to these emerging fields. As we said in the introduction to this essay, some institutions are on a trajectory toward making these positions tenure track. Consequently, even though the position for which a candidate is giving a job talk may not currently be tenure track, in the back of everyone's mind is the question of whether that candidate will succeed if, at some future point, the position converts and has all of the tenure requirements.

So what does this mean for the job talk? In a nutshell, the topic and thesis must have scholarship potential. A job talk that is nothing more than a version of "This is how I would teach students to draft a persuasive statement of the rules" will not work.<sup>25</sup> Instead, tie a drafting skill like this to a larger theory of persuasion, such as Aristotle's theories of persuasion, theories of persuasion that come out of psychology, or even modern advertising's approach to persuasion. Clinic/skills training candidates may want to tie some advocacy skill (*e.g.*, interviewing) to cognitive psychology, narrative theory, or linguistics. An academic support candidate should tie an idea of how to deliver academic support or teach a workshop to cognitive psychology, learning theory, critical race theory, teaching methods, or psycho-spiritual concepts. Professors in the audience are accustomed to using job talks to assess scholarly potential, so it is unlikely that they will turn that tendency off, even for positions that do not have

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25. What if you are coming directly from practice and have not had time to delve into scholarly writing? Two reviewers suggested it would be acceptable to present a case note on a case that came from practice or from clerking and discuss the possible outcomes and implications of such outcomes. Candidates for clinical positions could use a case to discuss litigation strategies. Again, we recommend that you discuss these options with the chair of the hiring committee.

scholarship requirements. Instead, try something like using inoculation theory<sup>26</sup> to discuss how to deal with unfavorable case law.<sup>27</sup> You could also discuss how the goals of social justice and empowerment of the disenfranchised are aspects of academic support, or how increasing participation of the underrepresented in law schools enhances learning of all students. Finally, you could discuss how the use of archetypal myths adds to the persuasion in closing argument. Job talk topics like these are bound to intrigue a faculty audience and demonstrate that a candidate has a scholarly side.

But what if, while conducting discovery, a candidate learns that a given faculty is skeptical about the scholarly value of articles concerning legal writing, academic support, or clinical teaching? Should a candidate press forward with a job talk based on a topic from those fields, or should he or she find a more traditional topic? In cases where the position includes teaching other doctrinal courses, the safe approach may be to use the content of the doctrinal courses for a job talk. In cases where the position is limited to teaching legal writing, academic support, or clinical teaching, the decision is tougher to make. A candidate may want to show that he or she is interested in other, more traditional topics. In that case, a job talk that focuses on these other interests is appropriate, but that approach may trigger a concern that the candidate is merely using the current position as a way to get his or her foot in the door with a long-term plan to move into another position. That risk, however, may be slight and worth taking if the topic is captivating.<sup>28</sup>

Ultimately, the best decision is to select whatever topic will show the candidate in the best light. That means selecting a topic that comes from the candidate's natural strength—a topic about which he or she can speak knowledgeably and enthusiastically. Further, that means selecting a topic that confirms in the minds of the faculty audience that this candidate will be a great teacher and scholar.

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26. Inoculation theory describes the tactic of presenting a weakened version of an opponent's strong argument in order to build up resistance to it.

27. This application of theory to practice was developed by Professor Michael Higdon in a Tennessee Bar journal article. See Michael J. Higdon, *When the Case Gives You Lemons...*, 46 TENN. B.J. 14 (2010), available at [http://www.tba.org/journal\\_new/index.php/download/file/83-march-2010](http://www.tba.org/journal_new/index.php/download/file/83-march-2010).

28. One of our reviewers gave an example of how a legal writing candidate might be able to handle this issue. In her example, the legal writing candidate could give a presentation on a topic he or she was passionate about, such as real estate finance, and then spent the last five minutes of the job talk showing it could be used to develop drafting exercises. The reviewer also thought that a reasonable alternative would be to use real estate finance as the job talk topic, but to then conclude with a statement something like, "While this will continue to be a passion of mine, I won't impose it on first-year students. I recognize that they need fundamental courses in property and business before understanding real estate deals." This approach shows the person appreciates the job at hand, while alerting the faculty to the possibility of having the person teach an upper level seminar at some point in the future.



## CONCLUSION

In the process of hiring law school faculty, both parties must realize that, from the first contact, this is not merely a single date that has no further consequences. A large majority of candidates will end up hired at a law school somewhere. Thus, if they do not become a direct member of a law school's family, they will probably become distant relatives. First impressions matter; the reputations of the law school and the candidate begin from the first contact and then solidify during the course of the interview process, culminating in the job talk, which is a singularly dramatic episode. How this process is conducted by both the candidate and the law school impacts more than just their relationship: It affects each of their national reputations for professionalism and collegiality.

With that perspective in mind, the ultimate goal of all parts of the hiring process, including job talks, is to match the right candidates with the right law schools. This matchmaking is more likely to succeed if both sides thoroughly understand the process, if both sides are explicit with each other about what they seek, and if both parties conduct themselves with the utmost professionalism.

If there is a common missing piece in the job talk phase of hiring, it is a lack of informed preparation. Too many otherwise wonderful law schools jump into conducting job talks without an articulated sense of their specific goals and objectives. In addition, too many otherwise wonderful candidates jump into giving a job talk without a full understanding of how this piece in the hiring process works. Just a little advance preparation on both sides can greatly increase the likelihood that job talks will be an effective tool for both candidates and law schools in helping them find their perfect match.