

THE ROLE OF THE LAW SCHOOL DEAN AS INSTITUTIONAL VETERAN

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INTRODUCTION

IN 1980, the *Emory Law Journal* published *The Five Roles of the Law School Dean: Leader, Manager, Energizer, Envoy, Intellectual* by Jeffrey and Thomas O'Connell.¹ Widely cited, this article has become the "pointe de departure" for all subsequent scholarship on the role of the dean in the modern day law school. But neither of the O'Connells were ever law school deans. The article, therefore, understandably overlooks some of the subtler and less obvious roles of a dean—roles that can best be appreciated by those who have served in the post. Having just completed almost a decade as Dean of Loyola Law School in Los Angeles, I thought that I would address one of these less obvious roles that a law school dean must play. For want of a better term, this role will be called the Dean as Institutional Veteran.

I. THE PROBLEM

The *Oxford English Dictionary* defines a "veteran" as "one who has seen long service in any office or position." Long service in an office brings with it experience. It is unfortunate for the position of law school dean, however, that the tenure in that office has grown increasingly shorter over the last two decades.

In 1999, the median term of a law school dean at one of the 184 American Bar Association accredited law schools in the United States was three years. From my experience, it takes a dean approximately two years to learn his or her job. If the median term of a law school dean is now only three years, that means that a law school will receive only one year of experienced leadership from a dean. If it takes one year more to select a new dean and then that dean does not exceed the median and serves in the post for only three years, the law school will benefit from only two years of experienced leadership during the seven year period. This lack of consistent experienced leadership caused by a series of short deanships will result in serious harm being done to an institution.

II. THE INSTITUTIONAL HARMS CAUSED BY SHORT-TERM DEANSHIPS

For convenience, I have divided the harms caused a law school by short-term deanships into three broad categories—the interruption of beneficial relationships, the loss of programmatic momentum and the institutional and financial cost to the law school.

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1. Jeffrey & Thomas O'Connell, *The Five Roles of Law School Dean: Leader, Manager, Energizer, Envoy, Intellectual*, 29 EMORY L.J. 605 (1980).

1. *The Interruption of Beneficial Relationships*

As the standard bearer and external envoy of the law school, a dean interacts with a wide range of constituencies—many of which are critically important to the growth and reputation of the law school. Chief among these constituencies, of course, is the law school's own alumni. Alumni represent the main reservoir of a law school's financial support. Many deans will spend almost 40% of their time on development and alumni relations.

The judiciary is another important external constituency. Judges not only hire a law school's students as clerks and externs, they also make appointments to advisory panels and other bench and bar committees. A law school can benefit reputationally if the dean or faculty members are appointed to these positions.

Deans of other law schools represent yet another important outside constituency. Many ABA and AALS activities require the participation of deans. Becoming involved in the "Deans' World" can result in appointments to important legal education committees that can enhance the visibility of both the dean and his or her law school.

The public at large represents a fourth important external constituency with which a dean interacts. A law school dean is provided with a "bully pulpit" that enables him or her to talk on almost any topic of social concern. Using the position of dean to garner public speaking engagements can help build the reputation of the dean's law school.

Convincing the law school's alumni to contribute to the institution, persuading judges to hire law school graduates as clerks, being appointed to ABA Committees, or obtaining important public speaking engagements all depend in large measure on personal relationships. It takes time, however, for a new dean to build these relationships to a point where they will benefit the law school. Alumni, for example, will more readily make donations to their law school if they like and are impressed by the dean. In my experience, building close and cordial relationships with the alumni takes several years—probably three or four at a minimum. If the median term of a law school dean is only three years, the law school's potential for significant fund-raising will remain largely unrealized.

2. *The Loss of Programmatic Momentum*

A law school, like any institution, experiences ebbs and flows. Generally, when a new dean is selected, the new dean will act cautiously at first, not wishing to make careless blunders. But slowly the dean will begin to increase momentum. A dean may, for example, begin to organize academic symposia for publication in the school's law journals. A dean may initiate new public service programs in partnership with local bar associations. A new dean may undertake a study of the law school's clinics or suggest innovations in the law school's curriculum.

All such innovations, of course, will take time to complete and more time to implement. Given faculty self-governance, matters begun in a new dean's first year of service will probably not be implemented until, at the earliest, the dean's second-year. Full implementation may take until the dean's third year. If a dean's term

lasts only three years, the dean's programmatic vision will hardly take shape before the dean must step down. The next dean, of course, may not share the first dean's programmatic vision, leading to a change in direction. These cycles of change can theoretically continue through a series of short-term deanships.

Given that law schools are competing for many of the same students and faculty, the appearance of institutional drift and indecision caused by a string of short-term deanships can rapidly translate into a loss of top quality students and faculty. Law school gossip takes no vacation—it is in operation 365 days a year, and 366 days during leap year. The lack of forward momentum at institution Z will be duly noted by faculty at A, B and C institutions who will quickly pass on a negative appraisal of institution Z to others. While some long-term deanships may cause their own problems, usually the consistent programmatic vision of a veteran dean is the best method of generating forward momentum at an institution.

3. *Institutional and Financial Costs*

Deans' searches are costly to a law school—both financially and institutionally. A law school can easily spend over \$25,000 in choosing a new dean. Candidates must be brought to the law school and lodged; receptions must be scheduled; local transportation must be provided. In real terms, however, the out-of-pocket expenses of a dean's search may represent the smallest cost. Lost opportunity costs will most likely constitute the largest cost. Whenever there is a dean's search, the whole faculty must interview each and every candidate. The Dean's Search Committee must check candidate references, read candidate scholarship, and review student course evaluations. Endless meetings of the Dean's Search Committee and, in some cases, the entire faculty are an inevitable part of the process. The President of the University and other Central Administration officials must also be brought into the search process. Think of how many law review articles could be produced by the faculty during the hours spent on the search. Add to these costs the time spent by staff, students, and alumni and you will begin to understand what an expensive exercise a dean's search is.

But there is more! Apart from the financial and lost opportunity costs, there are also many intangible costs borne by a law school during a dean's search. Frequently a dean's search exacerbates existing faculty tensions. Meetings behind closed doors become daily occurrences. Suspicions mount and rumors spread. The process may also bring the Law School and the Central University Administration into conflict over governance or budgetary matters.

Thus, in the end, a dean's search may be counterproductive—the process itself may contribute to the new dean having a short tenure. Given all this, you can imagine how problematic it is for a law school to repeat a dean's search every three or four years. That is, however, what the statistics seem to indicate. All in all, having a veteran dean who lasts well beyond the median term makes for a stronger and a more stable law school.

III. SUGGESTED SOLUTIONS FOR PREVENTING SHORT-TERM DEANSHIPS

While there is no “silver bullet” to assure that a new dean will beat the odds, I list below several suggestions that will at least work towards that goal.

1. *Deferred Compensation for the Dean*

Instead of paying a new dean the highest salary in the first year, the University Central Administration may consider a deferred compensation package. For every year of a dean’s tenure, compensation will be increased a certain amount above the normal increase. Such a package will create a financial incentive for a dean to stay for a longer term.

2. *Deferred Compensation for the Faculty*

To encourage the faculty to work harmoniously with a new dean, the University, without impinging on faculty governance responsibilities, may consider creating a package of incentives tied to the length of a dean’s tenure. If there are incentives for the faculty to work out differences between the dean and faculty, there will likely be fewer deans leaving after short tenures.

3. *Visit the Primary Dean Candidates in Their Own Law Schools*

As the great baseball player and philosopher Yogi Berra once remarked, you can see a lot by just looking. Most Dean’s Search Committees bring finalists to their law school for two days of interviews. Before doing this, however, I would suggest that a member or members of the Dean’s Search Committee visit the candidate at the candidate’s own law school. By this time in the process, confidentiality constraints should have been lifted. Committee members can learn a lot about a candidate by seeing the candidate in the classroom and seeing how the candidate interacts with colleagues. In short, the visit gives the committee members a better chance of accurately assessing whether the candidate will really be a “fit” at their home institution. Also, colleagues may feel more at ease in talking about a candidate if a member of the Dean’s Search Committee has taken the time to visit with them in their own offices.

There are, of course, additional benefits to going to the candidate’s institution for a brief visit. The most important benefit, of course, is the impact the visit will have on the candidate. A visit to the candidate’s law school can only impress the candidate that the courting institution is seriously interested in him.

CONCLUSION

A short-term deanship—i.e., a deanship of three or four years, or less—will harm a law school. A series of short-term deanships will *seriously* harm a law school. Therefore, the role of Institutional Veteran becomes an important one for a law

school dean to fulfill. Deans with long tenures create continuity and institutional stability at a law school.

A POSTSCRIPT

While the median term of a law school dean in 1999 was three years, the average term was 4.8 years. In 1980, when the O'Connells wrote their *Emory Law Journal* article, the average term of a law school dean was four years. Although other factors may contribute to the explanation, the increase in the average term of a law school dean may suggest that many deans are leaving office after only a few years of service, but deans who last through the first years are staying longer in the position. This, of course, is a topic for another day. Still, the data suggest that many dean candidates may covet the position of dean but dislike the actual job of dean. As anyone can tell you who has been a law school dean, the position of dean and the job of dean are two very different things.