

# INTERLOPER IN THE FIELDS OF ACADEME

*Peter Keane\**

I am a rare bird in this business: a non-traditional law school dean who did not have a prior career as a law professor. My pre-dean life was thirty years in law practice—the first ten in private practice, then twenty as the Chief Assistant Public Defender of San Francisco. During much of that time I did teach as an adjunct professor, in the evenings or during noon hours, at three law schools in the San Francisco Bay Area. One of those schools was Golden Gate University School of Law.

In the fall of 1998, a headhunter firm contacted me. They were doing a dean's search for Golden Gate. My old friend Gerald Uelmen, former dean at Santa Clara University Law School, had suggested me to them. When I told the search firm to go ahead and put my name in, I had little thought that I would actually get the job. But to my great delight, after surviving the interesting experience of the vetting and selection process, I was appointed dean. I officially started on January 1, 1999.

A couple of days later I found myself at my first meeting of the AALS. It was held in New Orleans. Until a few weeks before, I had never heard of the AALS. My associate dean, Jon Sylvester, who had also held the post under my predecessor, is a veritable Gibraltar of a man. Jon would save my hide many times during the next couple of years. He suggested that the AALS meeting would be a good introduction to the world of legal academia. So with that and the fact that New Orleans, next to our own Eden of San Francisco, is the favorite city of my wife and me, we both went happily winging southeast the day after the New Year.

At the AALS I closely scanned the list of programs and with some disappointment saw only one planned for deans. Even more of a "What is wrong with this picture?" impression for me, a brand new dean with umbilical cord still attached was the program's title. It was called, "*On Stepping Down.*" This was certainly an odd topic for someone with two days on the job. But I was a dean, I reminded myself. And, By God, if this program was where deans were to be found then that's where I belonged. So off I went.

My first impression of this gathering of my new brothers and sisters was not what I had expected. I was bursting with enthusiasm. Literally rapturous about this great new job—dean of a law school! Wow! How about that? But at that first session with my fellow deans, I walked in on a group that looked like a chapter of Alcoholics Anonymous with all its members in crisis. A somber, white knuckled, anxious attitude hung over everyone in the room. I sat and listened. Things got worse.

I heard tale after tale of people who spoke with enormous relief that their terms as dean were finally over. To a pre-Vatican II Irish Catholic boy like me, they seemed like souls who had spent long stints in Purgatory enduring painful purging of their sins. Now, finally, their ordeals were over. I studied the faces of the other

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deans in the audience. Surely they couldn't all feel this way? There had to be some dissent. But uniformly, all I saw was a grim stoicism. They nodded their heads whenever some particularly obnoxious quality of a dean's job was described. Yep, their expressions said, that's the way it is: pretty rough.

The stories, braced with a variety of anecdotes and experiences, all had the same threads. So much responsibility. No real authority. Nobody loves you. Nobody appreciates you. Everybody misunderstands you. You can't win. You get ground down physically, emotionally, spiritually. You're lucky if you come out of it sane and you certainly can't come out of it intact. My God!, I thought, could this be?

After a long period absorbing all this angst, I finally couldn't take it any more. I raised my hand and stood up. "Listen, I said, I am a new kid on this block. I've never been a law school dean. In fact, I was never even a full-time professor until two days ago, and I only got that because tenure goes with the gig. Please, someone tell me something good about this job."

Well, there have been other times in my life when I had condescending looks thrown my way. Once, at age 55, I signed up for a Yoga class in the Haight Ashbury and walked into a coven of the Hip Hop generation with nobody over 20 years old. But those pierced and tattooed kids were downright soul mates to me by comparison to the reaction I got from all these deans. *Good?* He wants *good?*, their looks said. How did he get in here? One of the presenters amiably mouthed some conciliatory words in my direction. He spoke in an unctuously patronizing manner like someone placating a cretin who made it in past security at a Mensa Society Meeting.

That is how my five-year term as a law school dean began.

Now, at the end of that term, I look back on that session with great amusement. Because my experience has been that those tales of woe are not true. Indeed, analyzing the past five years I have to say honestly that being a law school dean is an easy job. In fact, it is a piece of cake by comparison to most other jobs, certainly when compared to just about every other job in the legal profession.

For example, the biggest complaint of law school deans is about faculty. From that first meeting of deans and all through about a score more deans' gatherings that I attended in the last five years, the gripe was always the same. Faculty are impossible, deans lament; they are the bane of a dean's existence. Faculty were created by a perverse God to persecute and torment a dean, because a dean is first and foremost an administrator and no one can *administer* faculty. By their very nature, accepted dogma goes, law faculty will resist everything because they are anti-hierarchical.

Of course, anyone who spends three seconds with faculty knows this is true only about the hierarchy *above* them. When it comes to the pecking order below them, faculty are more hierarchical than the Tang Dynasty. That aside, however, the persistent point of my fellow deans is that there is inevitable, uncompromising resistance to any attempt by the dean to direct the faculty. As a result, the orthodox line is that a dean stays perpetually impotent.

When I was Chief Assistant Public Defender of San Francisco, I administered an office of 80 Public Defenders. Each one of them was a bomb throwing Bolshevik who ran the Black Flag of Anarchy up a flagpole every morning. Administrators? For them, administrators were sticks of gum to chew up, spit out and press on the

underside of a chair. By comparison to these terrorists, all of whom I loved, I found law school faculty members to be pussycats.

Another common dean complaint is stress. The job of a law school dean is oh so stressful. As a result, a dean becomes a total wreck. Deans thrash about in sleepless frustration every night. During the day they pop Prozac and Thorazine like M&Ms. Deans spend their few off hours on Dr Melfi's couch, assailed by horrible disorders like uncontrollable tics and painful ulcers. This then, according to another article of faith in the trade, is the inevitable fate of a dean.

Again I ask everyone to take a look at the lives of 99% of our brothers and sisters in other areas of the law. Almost all of them must hustle feverishly to make a buck. They often kill themselves struggling with billable hours in order to survive. Their days are spent pushing against the crushing weight of attending to problems often tearing apart their client's lives. The life of a law school dean is a virtual spa experience when compared to the regimens of these colleagues of ours who are involved in the day-to-day life of the law.

I tried over a hundred felony jury trials in my former life. Many of them were murder cases; several of them carried the death penalty. If I made a mistake, my client would be locked up in a cage for many years, perhaps forever. In some cases, the state was trying to kill my client. By contrast, if I make a mistake as dean, the worst thing that may happen is that some faculty member is mad at me. In the grand scheme of things, I'll take the angry professor over the dead client every time.

Another common complaint is that a dean simply has too many constituencies: students, faculty, staff, university administration, board of trustees, alumni, public, etc. So the range and the scope of a dean's job are impossibly broad and conflicting. No one can cover it all. When you add in the commitments of fundraising along with night and weekend attendance at all kinds of functions, the amount of tasks listed in a job description for a dean is a set up for failure.

Again, I didn't experience it that way.

The students love you. After all, you are the dean: an almost mythical figure in their eyes. Staying in touch with them is easy. I write a weekly column for the law school newsletter, which is essentially a cheerleader piece by me for them. A brown bag meeting once a month goes a long way. Schmoozing with them as you wander around the hallways or come in and out of the building is a joy. My best advice to deans is to talk to students every chance you get because, if nothing else, talking to students is so good for your own mental health. And that is simply because they are students, with all the wonderful qualities of the breed. They are fresh, energetic, and curious. They still actually believe that things are on the level. How refreshing and how different from most of the jaded, cynical relationships we have.

As for the law school staff, they are a dean's natural allies. Staff are very committed people. They want to do a good job for the students, whom they know are the core constituency of the law school. They work hard, much harder than the faculty and they get damn little appreciation for it. These are the people who experience the flip side of that faculty personality trait regarding hierarchy mentioned above. Often times, faculty react to staff as if they are pieces of furniture. Like with students, my advice to deans is to show attention to the staff. Talk to them. Get to know their stories and inquire about the details of their lives.

every now and then. Do these things on a regular basis and staff will walk through fire for a dean.

I need to use the word "schmoozing" once again. For the alumni and for fundraising it is a dean's most essential activity. Establishing a routine of schmoozing with alumni, early on, is the key to fundraising. The alumni love to hear from the dean because they are already naturally invested in the school. The success and reputation of the school is a measure of the worth of their professional degree. They know it, and the vast majority of them are willing to give money to keep up their investment. I lock myself in my office for a half-day every week and do nothing but call alumni, schmooze with them, and hit them up for money.

Contrary to myths about fundraising, it is really easy to get money out of alumni. Again, I want to use a measure from other things in order to make my point. Over the years I did a lot of fundraising. A good deal of that has been political fundraising. Also, as a former president of the Bar Association of San Francisco and former Vice-President of the State Bar of California, I spent considerable efforts hustling up dough for various activities and causes related to those organizations.

In comparison to the difficulties of most other types of fundraising, a dean starts out way ahead with law school fundraising because the fundraiser dean knows what a great product is being sold. So much of the success of fundraising comes from enthusiasm for what you are selling. A law school with its opportunities for students is God, motherhood and the flag all rolled into one. Selling some candidate for mayor, district attorney, congressperson, or hawking some bar association project is tough. None of those things have the same built-in appeal, and no fundraiser can feel as genuinely righteous and pumped up as a dean who is out hustling for such a great product as a law school.

It is now necessary to go the heart of why it is that almost every dean in the country seems to hate the job. It is because deans are drawn from the ranks of law professors. The job of a law professor is the worst possible training ground for being a dean. Because law professors spend their lives in splendid isolation, except for those relatively few hours a week that they are in front of a class, and in that one setting where professors have interaction with other human beings, they are the undisputed gods of what they say and do. No wonder when they must deal with the real world of people, acting spontaneously with power roles that are diffuse and uncertain, and with all the glorious contentiousness and the just pure craziness of life, professors fall apart.

Another big reason law professors hate being deans is that, despite their protestations to the contrary, law professors don't do very much work. The ABA monopoly that law professors still have over legal education in the United States is a terrific racket. Tony Soprano would be proud of it. The ABA won't allow any law school to require a regular professor to teach more than seven hours per week. Now back when I had a full-time professional life as San Francisco's Chief Assistant Public Defender and was administering a city department and also trying murder cases, there were many semesters I taught for four hours a week and several semesters when I taught for eight hours. I did this as an adjunct professor in the evenings and on lunch hours variously at Hastings College of the Law the University of San Francisco, and at Golden Gate. The courses I taught were also

rigorous subjects such as Evidence, Criminal Procedure, and Professional Responsibility I have to say quite candidly that I never found this difficult to do.

It is time for some more candor and from a more global level of observation. We all know that the real source of most deans being so ill fit for the job is the same reason so many other things are wrong with contemporary legal education. It has a lot to do with the narrow, homogeneous, and parochially dull background of so many law professors. The overwhelming number of law professors have their jobs simply because they did well in law school and/or attended one of the “top” law schools. As a result, the world of law school faculty is a cul-de-sac of inbreeding, intellectual incest, and an almost total lack of real world imagination or creativity.

Most law professors have absolutely no experience in the legal profession. Indeed, an enormous roadblock to getting hired as a law professor is the perverse academic mindset that experience in law practice is a liability. So a person who wants to come into the academy after any extensive time in practice is suspect. It is like someone who was once married who applies for membership in a monastery. The other monks feel threatened by one who has tasted the pleasures of the flesh. This is a bizarre way to design a system that prepares 99.999% of the lawyers in this country who will be delivering legal services to clients in the practice of law.

Add to this shallow, irrational method of personnel selection is the fact that the entire measure of legal “scholarship” for law professors is based upon writing law journal articles, and it is clear how foolish the system is. Everyone knows that nobody reads these articles. No judges read them. No practicing lawyers read them. They affect nothing. The overwhelming volume of the stuff in them is just regurgitated dross that has been churned out again and again in articles padded to the page margins and stoked with so many footnotes that a reader gets cross-eyed.

As a result of all this, the qualities necessary to be a good dean and to like the job are guaranteed to be missing in most law professors. And, it is even more unfortunate for students, for the profession, and for society at large that this weird disconnect between law professors and the legal profession exists.

What is to be done about all this?

Well, I won't even begin to try to make suggestions about how to handle the subject of law professor disconnect with the legal profession. That is for another article, one far longer than this one. But it makes great sense to me that when a law school looks for a dean, it should give a lot more scrutiny and weight to lawyers from outside academia if for no other reason than that it would be so much more humane to end the torture of all those poor law professors who become deans and are absolutely miserable in the job.