

MAKING THE CASE FOR LEGAL EDUCATION AND THE LEGAL PROFESSION

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A law school dean is expected to be a leader and a visionary. He or she should be relentless in providing leadership that promotes the mission of his or her law school and develop and sustain a vision for the future of the institution. This aspect of a dean's role has been very well articulated in numerous articles in the "Deans' Edition" of the *Toledo Law Review* and elsewhere.¹

This article encourages a broadening of the role of the law school dean as leader and visionary. In addition to making the case for his or her law school, a law school dean needs to take every opportunity to make the case for legal education and the legal profession.

My views on the need for this expanded role of the law school dean are informed by a personal experience on the one hand and by polling data on the views of Americans toward lawyers on the other hand. After recounting this personal experience and reviewing the polling data, I will discuss ways in which legal education and the legal profession add value to American society.

In September, 1992, the beginning of my second year as dean of Northern Illinois University College of Law, I received notice that the Illinois Board of Higher Education (IBHE) had recommended that Northern Illinois University be asked to consider closing its College of Law. This recommendation was part of a cost-cutting and down-sizing initiative targeting 190 degree programs in the twelve Illinois public universities. It was estimated that cutting these degree programs would save the State of Illinois between \$80 million and \$100 million.

The recommendation to close our law school was immediately viewed as a newsworthy event. In addition to receiving calls from local news media, I was contacted by CNN in Atlanta and the *National Law Journal* (NLJ). Realizing that widespread negative news coverage could have a devastating effect on the law school (e.g. a shrinking applicant pool—why apply to a law school that is about to close?), I tried to send a message that this was simply a recommendation that was not likely to be acted on (an assessment that proved correct when the IBHE took us off their "hit list" on year later). Although I convinced the CNN correspondent that there wasn't much of a story because the IBHE

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1. See, e.g., Jeffrey O'Connell & Thomas E. O'Connell, *The Five Roles of Law School Dean: Leader, Manager, Energizer, Envoy, Intellectual*, 29 EMORY L.J. 605 (1980); E. Thomas Sullivan, *Decanal Leadership: Managing Relationships*, 31 U. TOL. L. REV. 749 (2000).

recommendation was not likely to go anywhere, the *National Law Journal* reporter was determined to write an article.

At that point, I realized that it was very important that the news coverage be accurate. A key fact, for example, was that the IBHE did not have the statutory authority to eliminate our law school, or any other degree program for that matter. The IBHE merely makes recommendations that the public universities and their governing boards are asked to consider. I prevailed upon the NLJ reporter to consider all the relevant facts before writing the story by not only spending a good deal of time with him on the telephone, but also faxing to him relevant reports and data. The result was a very responsible piece of journalism. Unfortunately, the NLJ editorial staff took this responsible piece of news reporting and planted a blistering headline over it: “Northern Illinois Fights for Life After Board Suggests Shutdown.”² Dealing with this kind of news coverage became an important aspect of our year-long battle to keep our doors open.

The IBHE had given the twelve Illinois universities one year to consider the IBHE’s program-cutting recommendations and report back to them. Although the IBHE could not mandate that a program be cut, they did have final authority over the annual budgets of the public universities and thus wielded a great deal of influence through the budget approval process. So our mission over that fateful year was to mobilize support among all influential constituencies, while making the case for our continued survival on the merits. It soon became clear that in making our case among many of these constituencies, it was not enough to convince them that NIU College of Law was a good law school worthy of public support, we had to also make the case for legal education and for the legal profession.

During that year, I had to address, countless times, the notion that there were too many lawyers and too many lawsuits. This concern was voiced not only from quarters where it might have been expected, such as state and university officials, but also by some of our alumni! These alums complained that the market was saturated with lawyers, making the competition for clients increasingly difficult. These concerns mirrored the complaints from others that there were more lawyers than there were legitimate disputes, so lawyers manufactured cases. One way we responded to these concerns was to point to studies showing that the legal needs of a substantial percentage of Americans—particularly middle- and low-income citizens—were not being met. I became fond of saying that our graduates were not only prepared to practice on LaSalle Street (the legal and business center of Chicago) but also on Main Street.

Prominent non-lawyers often explained their reason for declining to support our law school by questioning the value of lawyers in our society. A local legislator who was a fervent supporter of our university and thus willing to give us lukewarm support, had a telling private conversation with me. He expressed the view that “lawyers make money by causing trouble” and that “this country is lawyering itself into oblivion.” I received similar sentiments again and again.

2. Ken Myers, *Northern Illinois Fights for Life After Board Suggests Shutdown*, NAT’L L.J., Dec. 14, 1992, at 4.

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All of them reflected not only a profound disrespect for lawyers, but also a lack of knowledge of the legal profession and legal education. For example, I was often told that we should have a required course in ethics.

These negative views of lawyers are pervasive and have escalated over the past few decades. Polling data highlight the magnitude of the problem. The *Harris Poll of Professional Prestige* was conducted each year between 1977 and 2001. It asked those surveyed to characterize the “prestige” of the following professions: doctor, lawyer, teacher, clergyman, policeman, congressman, journalist, and businessman. In 1977, lawyers as a profession were characterized as having “very great prestige” by 37% of those surveyed, with only doctors at 62% and clergymen at 41% ranking higher than lawyers. Virtually each year since 1977, this prestige ranking of lawyers steadily dropped. It was 18% in 2001, tied with journalists and ahead of only businessmen. Doctors were still over 60%. So, during the span of the professional careers of most current law school deans, the prestige of the legal profession in the minds of the American public was cut in half.

Similarly, in the *Gallup Poll of Honesty and Ethics*, the percent of those characterizing lawyers as having “very high” or “high” honesty and ethical standards declined from 27% to 19% while that of our colleagues in the medical profession went from 61% to 68%. Even dentists went from 52% to 56%. Only insurance salesmen and car salesmen ranked lower than lawyers in terms of honesty and ethics.

This declining public respect for the legal profession has numerous negative consequences that impact law schools and the various roles of the law school dean. Among the more obvious is the dean’s role as fundraiser. The law school dean will find it increasingly difficult to attract his or her share of shrinking public and private resources. Less obvious is the psychic impact that public disrespect has on our students and our graduates. Studies show that the levels of personal dissatisfaction and substance abuse are much higher among lawyers and law students than among those in the general population.³ A boost in public esteem for the profession should result in a boost in personal esteem for our students and graduates.

So, how do we turn this around? How do we increase public respect for lawyers and the legal profession? How do we convince people that lawyers add value to American society? How do we come to be seen as society’s peacemakers, rather than society’s troublemakers? An important first step is for the law school dean to accept the expansion of his or her role from spokesperson and visionary for one institution to spokesperson for legal education and the legal profession. American law deans are well positioned to be in the vanguard of this branding initiative.

3. See generally Connie J.A. Beck, Bruce D. Sales, G. Andrew H. Benjamin, *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sampling of Practicing Lawyers*, 10 J. L. & HEALTH 1 (1995-96); James J. Alfini & Joseph N. Van Voreen, *Is there a Solution to the Problem of Lawyer Distress? The Law School Perspective*, 10 J. L. & HEALTH 61 (1995-96).

The basic case for the legal profession is simple and straightforward. Lawyers are the guardians of our system of justice. The legal profession provides the means for the peaceful resolution of disputes in a society committed to the rule of law. Lawyers create stable social and business relationships. In these ways, lawyers play crucial roles in the successful functioning of our democratic society.

The case for legal education is equally simple and straightforward. Law schools educate and prepare their students to meet the legal needs of citizens operating in an increasingly complex, globalizing society. We teach them to take an ethical, problem-solving approach to serving their clients and communities. In short, legal education plays an important role in educating the next generation of our society's leaders.

Beyond these basics (which I would challenge others to articulate in a more elegant fashion), many lawyers and law students selflessly offer free services to others and their communities. We should be prepared to tell the public about the many hours law students devote to pro bono service and that the law schools' accrediting body and learned society actively encourage these activities. The Preamble to the American Bar Association Standards calls upon ABA-approved law schools to "provide an educational program that ensures that its graduates . . . understand the law as a public profession calling for performance of pro bono legal services." Moreover, Standard 302(b)(2) states: "A law school shall offer substantial opportunities for student participation in pro bono activities." The ABA Standing Committee on Pro Bono and Public Service maintains a web site that includes an online *Directory of Law School Public Interest and Pro Bono Programs*, as well as a *Directory of Local Pro Bono Programs*. The Pro Bono Project of the Association of American Law Schools has published a *Handbook on Law School Pro Bono Programs*, entitled *Learning to Serve: The Findings and Proposals of the AALS Commission on Pro Bono and Public Service Opportunities*, which is based on the report of the AALS Commission on Pro Bono and Public Service Opportunities. Moreover, additional web sites for law students and law school administrators that list placement opportunities in public interest and pro bono projects are maintained by Equal Justice Works⁴ and PSLawNet.⁵

As spokesperson for legal education and the legal profession, the dean needs to be able not only to relate these national efforts, but also to tell the story of his or her school's pro bono projects and those of his or her local and state bar associations. In a discussion with a prominent non-lawyer in the course of asking him to serve on our Visitors Committee, I was taken aback at his surprise that the law schools and the legal profession promoted public service activities in these ways.

Public interest work furthers the values that the legal profession has officially announced for itself. The Preamble to the *ABA Model Rules of Professional*

4. Equal Justice Works, <http://www.napil.org/>.

5. PSLawNet, <http://www.pslawnet.org/>. PSLawNet (formerly Pro Bono Students America) is a network of 114 law schools founded by New York University Law School that fosters law student community service and encourages future lawyers to incorporate public service into their careers.

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Conduct states that “[a] lawyer ... is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.” This notion of the lawyer as public citizen is reflected in the MacCrate Report’s promotion not only of lawyering skills, but also of professional values.⁶

Of course, law school deans are keenly aware of factors that militate against our making the case for legal education and the legal profession as forcefully as we would like. The public perception, justified in part, is that each year law schools flood the market with thousands of new lawyers preoccupied with making enough money to pay off heavy student loans. Over the past five decades, lawyer population growth has outpaced the growth in the general population significantly. In 1960, the population to lawyer ratio was 627/1 (285,933 lawyers). By 2000, this ratio had changed to 264/1 (1,066,328 lawyers).⁷ Moreover, the increases in law school tuition over this time period have far outstripped increases in the cost of living. My tuition at a private law school (1969-72) averaged \$2,000 per year. Today, my alma mater charges \$36,000 per year, an 1800% increase! The good news is that legal education and the legal profession are working hard to address the negative impact of heavy student debt loads. Some law schools have established loan forgiveness programs that have also been encouraged by access to justice commissions established by numerous state and local bar associations.

In short, the pervasive negative views of lawyers are a complex problem that law schools have neglected for too long. The disrespect that the American body politic has for lawyers, and for legal education, has escalated over the past few decades. Law school deans need to broaden their roles as leaders and visionaries to *make the case for legal education and the legal profession*. They are in a peculiarly good position to explain the value that legal education and the legal profession add to American society. In doing so, legal educators will also be forced to reckon with the causes and consequences of the negative public image of the legal profession and their impact on the future of legal education.

6. American Bar Association, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992). For an argument that the report “has contributed little to promoting professional values,” see Russell G. Pearce, *MacCrate’s Missed Opportunity: The MacCrate Report’s Failure to Advance Professional Values*, 23 PACE L. REV. 575 (2003).

7. For a discussion of these data and the changing demographics of the legal profession, see American Bar Foundation, RESEARCHING LAW, Winter 2005, at 1.