

A DEAN'S DILEMMA OR LESSONS IN DIVERSITY

*Elizabeth Rindskopf Parker**

I. INTRODUCTION

THIS journal is dedicated to the leadership issues facing today's law school deans. Surely the importance of this topic requires no explanation. After all, we lead the institutions that will dominate in preparing our nation's leadership for tomorrow. Virtually all of our nation's judges, over half of our U.S. Senators, nearly half of our governors, a third of our representatives to Congress, and about one fifth of our state legislators will be law school grads. Additionally, three of our last seven presidents held law degrees. In sum, while only a small percent of the population, lawyers constitute a disproportionately large portion of our leadership.¹

When we think about leadership as deans, our focus is likely to be dominated by the incessant and unavoidable day-to-day demands of the job: supervision, oversight and control of subordinates' work, management of institutional priorities, fundraising and endless meetings. These tasks can combine to crowd out providing the leadership—the vision and direction—for our institutions and even more importantly for the future of the legal profession itself. Obviously as law school deans, we need to think about the leaders we are creating but other commitments challenge our ability to do so.

In one sense, a dean's dilemma is the time management quandary of any senior executive: too many demands, too few hours. But there is a more subtle dimension to the dilemma of which I speak. I have learned that some essential institutional demands are in direct conflict with the legal profession's and nation's need for leadership. In my brief time as a dean, I have learned how the profession's need for greater diversity can sometimes directly clash with essential institutional needs for financial and reputational success.

This is the story of my struggle to improve institutional reputation and rankings, while holding onto the goal of improving diversity. It is also a story of what I have learned about law school leadership from a group of community leaders and my own alumni, and how a vision for improving society can be

* Dean, University of the Pacific, McGeorge School of Law.

1. *E.g.*, Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 2005 BYU EDUC. & L.J. at n.8 and sources cited therein ((forthcoming 2005); Brief of Amicus Curiae Ass'n of Am. Law Schools in Support of Respondents, *Grutter v. Bollinger*, 539 U.S. 306 (2003), 2002 U.S. Briefs 241, at *5-6; Nat'l Governor Ass'n, *Fast Facts on Governors*, http://www.nga.org/governors/1,1169,C_TRIVIA^D_2163,00.html (last visited Jan. 28, 2004); ABA, *50 State Survey: Lawyers-Legislators* (Jan. 16, 2004), <http://www.abanet.org/nabe/lawyerlegislators.pdf>.

approached through a series of relatively small, localized, and focused action steps.

II. THE DILEMMA EXPLAINED

National statistics suggest that I am not alone in recognizing the dilemma of low minority enrollment and graduation from law school. Today's bar remains over 90% white, and the applicant pool lacks the well-prepared diversity required to correct this situation any time soon. This year, for example, black enrollment in law schools fell to a 12-year low.² The limited numbers of diverse students sufficiently prepared to compete successfully for law school positions and enter the law school pool has produced a crisis. Without dramatic corrective action, no law school dean today can achieve one of the most important parts of any dean's job: contributing to the creation of a broadly representative legal profession, one as diverse as the nation it must serve and lead. More immediately, legal education in a non-diverse setting is also unlikely to prepare even those who are able to attend adequately for the world they will inherit.

It would be difficult to overstate this problem. As noted earlier, the nation's almost 200 ABA-approved law schools will graduate a very high proportion of our nation's leaders. Beyond this, our legal system has historically been the source of a common culture which knits our national diversity into a powerful whole. The lack of current or anticipated diversity within the profession, particularly among African American, Latino, and Native Americans, raises a profound and disturbing question: can our nation's remarkable rule-of-law tradition continue without the participation of *all* parts of our society?

For most law school deans, this disproportionately low level of minority participation is no surprise. But I was a newcomer to academia after a long career in legal practice and public service. These dismal minority statistics *were* surprising—and disappointing. My law school, the University of the Pacific, McGeorge School of Law, is located in Sacramento, California, described by one national news magazine as “the most integrated city in the U.S.” Moreover, Pacific McGeorge was an early leader in minority outreach efforts. I thought my new role as dean would allow me to build on earlier civil rights work and to contribute to diversifying the bar still further. I quickly learned how naive I had been. Where diversifying the profession was concerned, my institutional management and stewardship responsibilities seemed to be at odds with my leadership vision. This was a dilemma for which I was not prepared.

This dilemma has its origins in the national grading machinery created by *U.S. News and World Report*. For schools like mine, efforts to improve class quality—and thus the influential law school ranking—require that incoming students' entrance examinations scores and undergraduate grades continuously improve. This created a conundrum: a focus on scores and grades improved rankings, but reduced opportunity for those whose early academic experience did

2. ELIZABETH CHAMBLISS, A.B.A. COMM'N ON RACIAL AND ETHNIC DIVERSITY IN THE LEGAL PROFESSION, MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION 2 (2004), available at http://www.law.harvard.edu/programs/plp/PDFs/Projects_MilesToGo.pdf. See also Parker & Redfield, *supra* note 1, at n.7.

not ready them for undergraduate and law school entrance exam success. Judged against these ever-increasing requirements, too few minority students were competitive. The simple fact was that there are not enough well prepared minorities to meet the demands of the nation's law schools to fill their classes with a proportionally diverse but also highly qualified class. Put another way, the overpowering emphasis on higher LSAT scores has resulted in what one observer has called "the LSAT arms race,"³ as schools strive to move up the rankings on the backs of higher LSAT median scores. Were this merely an exercise in statistical gamesmanship, we could dismiss the whole affair as having little consequence. But the LSAT-ranking emphasis has a very real and disturbing challenge for deans.

Consider the facts. According to LSAC Statistical Reports, there were only 65 black applicants to law school in the year 2000 who had LSAT scores above 165.⁴ Successful recruitment—creating more than a token minority presence—will almost inevitably require significant scholarship dollars. Elite law schools engage in a bidding war to attract this handful of high-scoring black applicants. Not surprisingly, the richest of the nation's law schools have the advantage of both reputation and financial support. Further, because of the market mismatch of available scholarship dollars with an undersized segment of the applicant population, the elite schools have raised the financial cost of minority recruitment significantly through their generous scholarship offers. Of course, it would be churlish to begrudge high-LSAT, high-GPA minority students the opportunity to attend elite schools with lavish scholarship support. Nonetheless, for schools below this elite top-tier, the loss of a minority cohort in the classroom impacts legal education negatively, while doing nothing to correct the over-all lack of adequate diversity.

Every law school dean is familiar with the tension between these goals of a diverse and well-prepared profession and the institutional needs played out at Pacific McGeorge. As I learned about the parameters of this dilemma, I also learned about a range of strategies that has been attempted to address this problem. Of course, I was aware of affirmative action programs designed to attract talented but less well-prepared minorities. I also knew that such programs were of limited practical value because they had been the subject of longstanding legal debate and challenge in public schools. What surprised me to learn was that there was an analogous practical barrier created by the "rankings race" which confronted private schools as they considered affirmative action strategies.

The importance placed on LSAC entrance examinations and undergraduate performance in the annual *U.S. News and World Report* rankings had actually forced many schools—both public and private—to choose between their national ranking and creating a diverse student body and future professional legal community. Lower credentialed entering classes quickly translate into a

3. See William D. Henderson, *The LSAT, Law School Exams, and Meritocracy: The Surprising and Undertheorized Role of Test-Taking Speed*, 82 TEX. L. REV. 975, 978 (2004) (citing Abiel Wong, Note, "Boalt-ing" Opportunity?: Deconstructing Elite Norms in Law School Admissions, 6 GEO. J. ON POVERTY L. & POL'Y 199, 239-41 (1999)).

4. *Grutter v. Bollinger*, 539 U.S. 306, 376 (2003) (citing LSAC Statistical Reports (1992 and 2000)); Parker & Redfield, *supra* note 1, at nn.7, 178.

diminution of reputation, regardless of the possible subsequent success of lower-credentialed students. And, when national rankings fall, the impact on both tuition revenue and alumni financial support follows inevitably. Ignoring entrance criteria of incoming students has thus become a risky proposition for many private schools and alternate strategies to address this dilemma appear to be limited.

When “less-well qualified” minority students (as traditionally defined) were accepted to improve diversity, there were practical problems with the potential to backfire. Our own experience taught that poorly prepared students were often overpowered by the rigors of the first year curriculum and then further handicapped by stereotyped perceptions of lack of ability. Failure and disqualification left them and their classmates with a negative experience, damaging institutional morale and individual motivation. Nor were last minute efforts to improve preparation on the eve of law school attendance—the “cram course” approach—highly effective. So too, academic support efforts once law school began seemed to have limited impact. Finally, and most discouragingly, once a school lost its “supply line” of minority applicants and its sense of a supportive community for them, I felt sure that it would be an uphill battle regaining their participation in light of what I had learned.

I felt stymied. As I reflected on the lack of good solutions for the immediate problem faced by my one law school, it occurred to me that the real solution was to increase the national supply of well-prepared minorities over the long term. But this was a goal well beyond anything I could hope to achieve. I wasn’t a public school administrator or an education policy maker. I was a law school dean, and making a difference along the “P-20 Pipeline” (i.e., the entire cycle from pre-school through undergraduate education) was both beyond my ability and outside my responsibility.

III. AN OPPORTUNITY EMERGES

Meanwhile, as these thoughts developed, a drama was unfolding in parallel in the law school’s surrounding inner city neighborhood of Oak Park. Kevin Johnson, a neighborhood hero, had returned to address the education and economic needs of Oak Park following a successful career as an NBA basketball star. His St. HOPE Corporation was focusing on economic and educational revitalization; a successful after-school education program and efforts to create a charter elementary school were underway. Soon after my arrival, Johnson invited the law school to join his vision of an Oak Park “educational corridor” extending 20 city blocks from the law school, past Sacramento High School and his offices, to the University of California-Davis medical school.

The early objectives of the relationship between Pacific McGeorge and St. HOPE were modest, informal and opportunistic—an effort at neighborliness on both sides to help one another. Johnson offered to encourage prospective minority faculty about the community, and the University of the Pacific offered a scholarship program in Oak Park for a small number of qualified students to attend college and law school. The Pacific McGeorge bookstore and IT department assisted in the Oak Park bookstore opening, and law students were encouraged to discover Johnson’s new Starbucks half way between us and Sac

High with initial offers of free coffee. Enlightened self-interest motivated this co-operation: we hoped to encourage improvements in a poor surrounding neighborhood and to demonstrate that, as an institution, we were sympathetic to community needs and concerns.

Then, unexpectedly, an opportunity emerged to move our collaboration to a new level. In late 2002, the City of Sacramento School Board announced the closing of neighborhood Sacramento High School due to a precipitous decline in student scores. Johnson was invited to apply for a public charter to operate the school. After initial reluctance, with the added promise of support from the Bill and Melinda Gates Foundation, Johnson agreed, adopting the Gates' "small school model" as his plan. Six themed small schools were proposed for Sac High, each with a sponsoring grant of \$500,000 from a local organization or donor. One themed school, the School of Law and Public Service, was inspired by the efforts of several Pacific McGeorge alumni, including Kyriakos Tsakapolous, whose sponsoring grant in the spring of 2003 was accompanied by a request that the law school join him in supporting the new effort wherever it could. Lacking any familiarity with high school education and having no idea what might be useful, we sought help from the University of the Pacific's undergraduate and education schools to organize a "visioning session" with national experts, hoping to explore what support for the new School of Law and Public Service might involve. Several law school faculty joined in the day-long session as well.

I arrived at this initial visioning session with few preconceptions. I was motivated by a desire to support the alumni working with Tsakapolous in creating the new small school. But I knew little about public high school education and only slightly more about the history behind the new charter high school. Charter schools are a political flashpoint in California, and the conversion of Sacramento High to a charter had been vigorously opposed by the local teachers' union. Their strident opposition at numerous School Board meetings, well reported in the local news media, had been followed with lawsuits to set aside the approval decision. But my own direct involvement had been limited: two minor appearances in support of Johnson's efforts at a Sacramento School Board meeting. Still, in retrospect, I now see that these appearances were clarifying. To avoid taking sides in a community disagreement in which the law school was only a bystander, I focused on my own role as law school dean. In doing so the connection to this failing high school had become clear.

I had stumbled into the truth. Like every other law school dean in the country, the success of public education was directly affecting my ability to attract, train and produce the legal profession needed for the 21st century. I couldn't meet my responsibility, I couldn't "do my job," without a well-prepared and diverse group of applicants. By now I also knew that, long term, the only solution to the minority applicant dilemma was to increase the numbers of academically competitive minorities, not simply to have law schools fight among ourselves over the limited supply available. This approach—a dramatic increase in supply—meant reaching back to the earliest times in a student's academic career to influence the way in which minds were opened and preparation occurred.

With these few thoughts in mind, I spent that June visioning session listening to colleagues from a high school, a school of education, a college and from

McGeorge and other invited law schools talk with experts and alumni about what could be done to help a new school design a vision of success for its students. At the beginning of the day I sought to address my own doubts about what role I could realistically play. By the end of the day, my beliefs about what a law school dean can and must do had begun to change.

My change in view did not happen quickly or with a clear plan. What is now called the “P-20 Initiative” began much like a “start up” corporation—with an idea, a concept, and very little else. Could a law school, working with its education partners along the pipeline, design a better way of preparing minority students for college and professional school? Could this partnership also be a model that others could assist and emulate? Today, after two years working on this experiment, I believe that the answer is that we can. I also believe that in learning this, I have been taught some important lessons about law school leadership.

IV. A PLAN EMERGES FOR “THE PIPELINE”

The details of the “P-20 Initiative” ultimately produced by our June 2003 visioning session evolved gradually. Although the University of the Pacific prides itself on an educational approach which emphasizes service and community internship experience in an ethical environment designed to produce “citizen leaders,” we had no clear plan about what we hoped—or could—achieve. Even after the initial session, our commitment was simply to do whatever we could to help the new School of Law and Public Service at Sac High. The specifics of such help were unclear.

And initially, there was little we could do to help the new school. Its opening had been chaotic—troubled by ongoing litigation and a disruptive transition that challenged its ability to go forward at all. Accordingly, we limited our offers to small things that would establish our involvement while developing a base of support and mutual trust.

Even so, we learned that small things mattered. In this first year, McGeorge donated out-of-date computers and excess library books. We invited high school students to a “law day” on our campus, where they attended special law school classes designed for them. For the faculty, we hosted small periodic receptions on our campus, and organized several follow-up visioning and curriculum design sessions. Our education school proved an invaluable partner.

At one small session, we concluded that there would be benefit from learning what other schools were doing nationally. We were invited to convene a national conference with teams of like-minded schools at the Wingspread Conference Center of the Johnson Foundation in Racine, Wisconsin. This “Wingspread I” Conference in June 2004 began a series of national gatherings at which we learned that others, too, were frustrated by the lack of adequate minority participation in college and professional schools.⁵ Many had designed programs

5. John Nagle & Sarah Redfield, *Renovating the P-20 Pyramid in Education—With the Leadership of Schools of Law*, REP. ON THE WINGSPREAD CONF. 14 (June 2004), available at http://www.mcgeorge.edu/government_law_and_policy/education_law/wingspread/wingspreadReportFinalDraft1031.pdf.

that could be replicated, and there were also a number of law-based curricula designed for high school students.⁶

From our high school colleagues we learned something else important to our effort. The power of law schools in supporting high school partners was immense and extended beyond our pedagogical approach or the content of the law. As institutions and individuals we were particularly powerful. They pointed out that we knew how to solve complex problems, to make changes and, most importantly, they reminded us that we had access to many powerful and influential leaders in our alumni networks. We *could* work to make a difference.

I returned from the Wingspread Conference reinvigorated about the potential of a four-sided school partnership (high school, college, education and law), and committed to building more programs based on what we had learned.⁷ The curtain was rising on the next phase of this effort. By now, Sac High had not only survived its transition, but was ready to accept additional help. More intense coordination would be required, but without outside funding, our options were limited. From the law school perspective, we needed someone at Sac High, dedicated to this effort on our behalf. We identified a law graduate who was prepared to provide daily on-site coordination in return for tuition forgiveness to pursue an LLM and a small stipend. With this limited staffing and the strong support of our School of Education, we designed and implemented a teacher in-service support effort and a mentoring program, staffed by 30 law students who contributed two hours each week. Later, we added a monthly speakers program, taking advantage of previously arranged law school speakers and adding talks by minority alumni and local leaders. We began a Saturday morning seminar series with practicing members of the bench and bar at local law offices and courts to “show off” the profession and to increase student aspirations. And we augmented the law school campus visit program with a second day-long visit at the University of the Pacific’s main campus an hour’s drive away.

Anecdotally and statistically, the second year of interaction proved powerful. Student involvement in law-related curricular and co-curricular activities was high, test scores increased,⁸ and interest in and ability to attend college improved dramatically.⁹ Furthermore, the emotional excitement generated by the effort is

6. For a further description of the pipeline concept, see Univ. of Pacific, McGeorge School of Law, Educational Pipeline: From Preschool to Law School, http://www.mcgeorge.edu/government_law_and_policy/education_law/wingspread/index.htm (last visited Nov. 8, 2005).

7. From the Wingspread I meeting, a Call to Action to other law schools and universities was issued. Univ. of Pacific, McGeorge School of Law, Call to Action: Renovating the P-20 Pyramid in Education with the Leadership of Schools of Law, http://www.mcgeorge.edu/government_law_and_policy/education_law/wingspread/call_to_action.htm (last visited Nov. 8, 2005).

8. For example, after just the first semester of one-hour a week mentoring, 44% of the mentees improved their GPAs with more rigorous coursework, 33% maintained their GPAs with more rigorous coursework and only 23% had declines in GPA. Email from Shelly Gorman, Guidance Counselor, Sacramento High School’s School of Law and Public Service (SLPS), to Professor Sarah E. Redfield, Franklin Pierce Law Center (July 8, 2005) (copy on file with authors).

9. At the end of this year, the SLPS graduation rate stood at a strong 96%, with 88% going to college. SLPS students have been admitted to such schools as Catholic University of America; Cornell University, NY; Mills College, CA; Tuskegee University, AL; UC Davis; UCLA; UC Merced; UC Santa Cruz; and the University of Iowa. Three SLPS grads are going to the University

something that has been experienced by every one of our students, faculty and alumni who have been involved in the program, as well as by the high school students themselves.¹⁰

V. CONCLUSION: THE ALUMNI RESPONSE

At this point, another unexpected aspect of the story emerged: a powerful response to this program by our alumni. Their response taught me that leadership is more than supervision and management, it is a commitment to a goal with larger meaning.

The response of our alumni to the efforts at Sac High has been a small miracle. Most impressively, a new Black Alumni Association developed almost as if by “spontaneous generation,” determined to address the problem of minority participation we presented to them. This group reached out to the high school, to current minority students, and to prospective minority applicants with a power and passion previously unseen. The Association members have committed themselves to making a difference for the profession, the law school, and the community. Almost single-handedly they have helped us change the diversity character of our incoming classes in ways I would not have thought possible. Several have taken a leadership role in our high school programs, and their impact in supporting and encouraging current students has also been significant. The power of their interest and commitment is obvious and has provided a model for building support for other parallel organizations.

Beyond the Black Alumni Association, however, the Sac High story is rekindling the energy and interest of a wide range of our alumni—from those in large law firms, to those in corporate positions and others in small practice groups. No current activity at the law school produces greater excitement in conversations with individual alumni than the Sac High initiative. It has become clear to me that these alumni are looking for ways to “give back” to their communities—and the law school has begun to fill that need. So too, members of the local judiciary, whether alumni or not, have responded to the role that the law school is seen to be playing in the community. Visiting speakers also have commented on the power of the partnership and the excitement they observe. In many cases, the bench and the bar are waiting to be asked. What has been lacking is a systemic and systematic way to approach and use their human and intellectual capital to reach out to our young people and enhance their aspirations and achievement.¹¹

What conclusions do I draw from this experience? With some irony, I now understand that my own *immediate* dilemma—how to improve minority participation in my own law school, mindful of the need to maintain credentials and build alumni financial support—had a solution that depended on leadership and vision for the *future*. My dilemma required looking beyond the immediate

of the Pacific; we are especially proud of the first recipient of the Clarence Brown Scholarship (for four years at Pacific and three at McGeorge), Mariel Sanchez. *Id.*

10. For example, of the 30 mentors who signed on for work at Sac High in the first semester, 29 signed on again for the second. *Id.*

11. See generally Parker & Redfield, *supra* note 1.

problem faced by my own law school of inadequate numbers of well-prepared minority students that would benefit all law schools and our entire profession. It required setting aside for the moment concern about quick fixes and focusing instead on the long-term solution of early preparation for minority students.

And so have learned that effective leadership means more than solving problems alone and in isolation. It requires building partnerships committed to addressing this challenge across the education pipeline. Effective day-to-day leadership requires a broader vision about the future of the profession we hope to build together. Law school leadership is, in the end, about the world we want and the role of law and lawyers in it. What lesson could be more timely or valuable for a new dean?