

REBELLIOUS DEANING: ONE AFRICAN AMERICAN WOMAN'S VISION OF A PROGRESSIVE LAW SCHOOL

SHAUNA MARSHALL*

For eight years, I served as the Academic Dean for UC Hastings College of the Law, where I tried to lead the institution “rebelliously.” When we think of rebellious lawyering we envision working with marginalized, under-resourced communities seeking changes in the political, social and economic systems that pervade clients’ daily lives. Yet I found the philosophy, strategies and sensibilities embedded in rebellious lawyering theory proved well suited for the way in which I wanted to approach leading and transforming one of the most regnant institutions, the American law school. In this article I shall try to dissect how, as a dean, I tried to create a different type of law school community; one that attempted to build a consensus around a new and progressive vision of legal education. Like any story, aspects of this account may be unique to the UC Hastings community and to my idiosyncrasies as a leader. Nevertheless, I believe that many of the methods used and lessons learned are transferable and useful in other institutions, public, private and non-profit alike. I shall try to provide an honest account of successes, failures, lost opportunities and structural challenges during my limited time as a rebellious dean.

I. INTRODUCTION

In his path-breaking book, *Rebellious Lawyering*,¹ Gerald López critiques, in all its glory, the regnant practice of law in marginalized and poor communities. He examines the way in which law offices are organized to “formally” represent clients; the dichotomy between direct service work and impact work; the lawyer as ultimate problem solver who “involves” the client or community in a limited fashion; the haphazard use by lawyers of other disciplines in crafting solutions; and lawyers’ incomplete knowledge and understanding of the political, social, economic and cultural structures that affect the lives of their clients.² Since law schools spend so little time training lawyers to

* Professor of Law Emerita, University of California, Hastings College of the Law. Many thanks to Maria Burgos, Gloria Davis, Susan Esveld and Roslyn Foy for their wisdom and support during my tenure as academic dean. A very special thank you to Jerry López who helped guide my vision of leadership.

¹ GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992).

² *Id.* at 23-24.

practice law, the connection between the way in which attorneys treat clients in low-income communities and the structure of law school may seem a bit attenuated. I would argue, however, that law schools are a prime example of a regnant institution: one ruled by a powerful elite that sets the agenda and program with all too often little regard for the impact of its policies on staff, students, the legal community or the greater society that their graduates are supposed to ultimately serve. And, since we are all educated in that environment, it is not a coincidence that our practices often mirror the hierarchal institutions that train us.

Law schools run like republics. Like the federalists of James Madison's day, the law school is governed by a chosen body of citizens — the faculty — who are ostensibly endowed with the wisdom to decide what is in the best interest of the institution and are able to put their personal interests to one side.³ The faculty is instrumental in selecting its leader, the dean, who is or becomes a member of the faculty. Then, using a committee structure, the faculty works with the dean to set the rules and regulations that govern the institution: hiring other faculty, admissions policies, curriculum development, research standards and productivity for tenure, teaching loads, etc. With little input from anybody or institution outside the faculty, the faculty makes decisions that affect the work of law school staff, determine the type of education its student body will receive and influences the way in which law, in all its many permutations, is practiced. There is, however, one exception to law schools' insular style of rule — the influence of rankings as expressed in the spring issue of *U.S. News and World Report*. Since current law school applicants appear to take the rankings of the magazine as the gospel, law schools spend a great deal of time and energy developing strategies that they believe will improve their rankings, strategies that are connected to the criteria selected by *U.S. News and World Report* but have little connection to the needs of the student body, staff, legal profession or society as a whole.⁴ In fact, the rankings do not examine in any fashion the quality

³ Ascanio Piomelli, *The Challenge of Democratic Lawyering*, 77 *FORDHAM L. REV.* 1383, 1388-89 (2009).

⁴ (1) Forty percent of the law school ranking is based on overall quality as determined by fellow academics, lawyers and judges. Of that 40%, 25% is from a survey sent to deans, associate deans, chairs of appointment committees and recently tenured faculty and 15% is based on the opinion of lawyers and judges; (2) 25% is based on selectivity of the student body with 12.5% representing the student body median LSAT; 10% representing the student median GPA and 2.5% representing the acceptance rate at the school; (3) another 20% is based on placement success, 4% of which is judged at time of graduation, 14% is judged 10 months after graduation and 2% is based on bar passage rates in the relevant jurisdiction; and (4) 15% is based on resources of which 9.75% is based on expenditure per student (of which 1.5% is for financial aid), 3% is based on student- faculty ratio, 1.5% is

of legal education and training meted out at any school. While the amount of financial aid awarded affects a mere 1.5% of the rankings, no meaningful analysis is given to student debt. Additionally, the rankings appear to be “color-blind,” paying scant attention to the diversity of the student body or the faculty, and the inherent biases in some of the means it uses for assessing quality.⁵

It was with this view of the legal academy that I agreed to accept the nomination of my peers for the position of academic dean, the chief academic officer for UC Hastings.⁶ Four other members of the faculty were also nominated for the position. The process required each of us to put our vision for the law school in a position paper that was circulated to the faculty and staff. Each candidate then presented their ideas to the faculty and staff, giving them the opportunity to engage us in a question and answer session probing the way in which we would run the school. The faculty then voted and sent its top candidates to the board of directors. The board made the final decision. Typically, the board selects the faculty’s first choice.

In preparing my position paper, I realized it was my experience as a community lawyer, using the philosophy, strategies and sensibilities embedded in rebellious lawyering that animated my leadership strategy for running the law school. In his article *Lay Lawyering*,⁷ López describes the way in which we persuade others to reach outcomes we desire. Using a scenario involving the hailing of cabs in New York City,⁸ López depicts how we bring shared meaning to everyday experiences by using stock stories and stock characters. If our goal is to persuade others of our position, telling a story embedded with charac-

based on instruction, library and other student support, and .75% is based on library resources. See *Methodology: 2017 Best Law Schools Rankings*, US NEWS & WORLD REP. (Mar. 13, 2017), <http://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>.

⁵ William C. Kidder, *Law and Education: Affirmative Action under Attack: The Struggle for Access from Sweatt to Grutter: A History of African American, Latino and American Indian Law School Admissions, 1950-2000*, 19 HARV. BLACKLETTER J. 1 (2003).

⁶ See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, BY-LAWS, § 15.2, <http://www.uchastings.edu/about/leadership/docs/bylaws.pdf> (last amended Mar. 11, 2005) (hereinafter “BY-LAWS”). It provides the following:

Academic Dean. (a) The Academic Dean shall serve as the chief academic officer of the College under the Chancellor and Dean and shall administer the academic program of the College in accordance with the policies adopted by the Faculty. The Academic Dean shall also serve as Chief Executive to the extent of the authority delegated by the Chancellor and Dean. (b) In the case of a vacancy in the office of the Chancellor and Dean and prior to appointment of an Acting Chancellor and Dean, the Academic Dean shall assume the authority and responsibilities of the Chancellor and Dean. (c) The Academic Dean shall be a tenured member of the faculty.

⁷ Gerald López, *Lay Lawyering*, 32 UCLA L. REV. 1 (1984).

⁸ *Id.* at 2-3.

ters, values and experiences that resonate with those we hope to persuade is the way to move them toward the outcome we desire. And, as López points out, “the dichotomy between story and argument should not be cast too boldly.”⁹

My position paper attempted to tell a story about the current structure of the American law school, specifically UC Hastings. By drawing on familiar stock characters and stories, I hoped to describe a possibility of transformation that resonated with my audience: the faculty, staff and students. I did it in much the same manner as the fictional character “Lucie Fong” in *Rebellious Lawyering* when she took on the position of Executive Director of a non-profit law office.¹⁰ I examined in detail how the institution worked — beginning with how power gets exercised and distributed generally at the school — to the way in which students, staff, top administrators, the board of directors and faculty interact with the academic dean in her efforts to run the school. I described, to the best of my ability, the strengths and weaknesses of those interactions and tried to articulate a vision that encouraged the different facets of the law school community to collaborate with each other. I then articulated my tentative vision for the school and informed the faculty and staff that I would call upon the various members of the UC Hastings community to roll up their sleeves and work alongside me to further develop and implement this vision. My story to UC Hastings was one that drew upon a notion of inclusiveness that would bring vibrancy to all that we did: teaching, scholarship and service in the broader legal and educational community. I told a story that resonated with my audience and I relied upon shared values and shared references. I was the overwhelming favorite among my peers.

The board, the ultimate decision maker, then interviewed me along with two other candidates. Although I was not privy to the board’s conversation about my candidacy, the rumor mill quickly spread that I was not the board’s first choice. It took a strong reminder from Chancellor and Dean Mary Kay Kane that it had been the practice and the promise of the board to defer to the faculty in the selection of the academic dean. I began my duties on July 1, 2009.

This article will examine the strategies employed, the actions

⁹ *Id.* at 32.

¹⁰ Upon taking on her role as Executive Director, Lucie Fong observed how every aspect of the non-profit law office ran. She started with the reception area and examined every facet of the intake process, including whether the furniture was comfortable and appropriate for their clients and their families. She then looked at the way in which referrals were meted out, intake interviews were conducted and continued in that manner until she was able to critique every part of a client’s representation. LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, ch. 2.

taken, the successes, small and large, full and partial and all the many disappointments and failures that took place during my limited tenure as academic dean. It will critique my efforts to try and transform one of the most regnant institutions, the American law school, through the intentional practice of “rebellious deaning.”¹¹

II. THE STRUCTURE OF UC HASTINGS COLLEGE OF THE LAW

Changing any institution in a rebellious way requires learning, in a real sense, how the institution works. A rebellious dean, or any rebellious faculty member, will need to know the institution’s history, its purported purpose, and its real purpose. She will need to understand how it impacts the lives of those in its sphere, as well as who is exploited by its processes and who benefits from that exploitation.¹² In his article, *Changing Systems, Changing Ourselves*,¹³ López examines the structures and institutions affecting Latinos’ lives, “[t]hese biased systems traced their origins as do all systems — to a mix of deliberate design, capricious choice, and accidental rites.”¹⁴ I had learned from my rebellious training that we lawyers are often educated to think that we do not need to know about the larger systems in which we operate.¹⁵ Making reforms at UC Hastings meant learning its history, its structure and how it played out, by design or accidentally, in the lives of those who make up the UC Hastings community. Thus, I studied the history and the structure of the law school I was about to run.¹⁶

Serranus Hastings, California Supreme Court’s first chief justice and third attorney general founded UC Hastings College of the Law in 1878.¹⁷ That year, he gave the State of California \$100,000 in gold coins to start the first law department of the University of California. Consequently, UC Hastings became the first law school in California. Justice Hastings became the first dean of UC Hastings and required that one of his heirs always sit as a member of the UC Hastings Board of Directors.¹⁸ As a result, UC Hastings is the only entity in the Uni-

¹¹ By “rebellious deaning” I mean engaging the full law school community (faculty, students, staff and board) in a collaborative process that develops a progressive vision of legal education and then together create a strategy for implementing that vision.

¹² LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, ch.1.

¹³ Gerald López, *Changing Systems, Changing Ourselves*, 12 *HARV. LATINO L. REV.* 15 (2009).

¹⁴ *Id.* at 17.

¹⁵ *Id.* at 28.

¹⁶ Because UC Hastings College of the Law is a freestanding law school, the chancellor and dean performs the role comparable to the president of a college and the academic dean is the chief academic officer. See note 32, *infra*.

¹⁷ See CALIFORNIA EDUC. CODE §§ 92200-92215 (2016) outlining the creation and rules governing UC Hastings Law School.

¹⁸ See BY-LAWS, *supra* note 6, § 5.3 Terms. One of the Directors shall always be an heir

versity of California system that is not governed by the University of California Regents.

Following World War II, UC Hastings took advantage of mandatory retirement laws and formed the “65 Club.” The Club brought prominent scholars from around the country to UC Hastings during the last years of their careers.¹⁹ When I arrived at the College in 1994, the 65 Club had been abandoned but there were still a few surviving members who were active members of the faculty: Ray Forrester, Julian Levy and Stefan Riesenfeld. Other members of the 65 Club had included William Prosser (Torts), Rollin Morris Perkins (Criminal Law), Rudolf B. Schlesinger (International and Comparative Law), Richard Powell (Property), Roscoe Turner Steffen (Civil Law Subjects), Edward S. Thurston (Restitution) and former U.S. Supreme Court Justice Arthur Goldberg, along with former California Supreme Court Justices Roger J. Traynor and Raymond L. Sullivan.²⁰

I mention the 65 Club because of the effect it had on the culture of UC Hastings. On the one hand, for a long time, UC Hastings had one of the oldest and least diverse faculties in the nation. As a result, curricular innovations, often pushed by younger faculty, women faculty and faculty of color, were slow to hit UC Hastings. However, the 65 Club had one particular lasting and beneficial effect — it created a culture of civility and congeniality. Long past the time in their careers when faculty are elbowing each other for scholarly recognition and prominence within their respective institutions, all of the 65 Club men were accomplished professors with solid scholarly reputations. They had landed in a place where they could spend the rest of their careers teaching, producing scholarship and discussing the issues of the day. With the passage of the Age Discrimination in Employment Act,²¹ law schools no longer put their senior members out to pasture and, as a result, the need and applicant pool for the 65 Club disappeared. Nevertheless, throughout the 1990s, their presence was felt on the UC Hastings campus and when I arrived in 1994, despite the fact that UC Hastings now had a relatively young and diverse faculty, the culture of civility and congeniality brought to the school by the 65 Club was baked in.

or representative of S.C. Hastings.

¹⁹ See Univ. of Calif. Hastings College of the Law, <http://www.uchastings.edu/about/index.php> (last visited Sept. 9, 2017); and BY-LAWS, *supra* note 6, <http://www.uchastings.edu/about/leadership/docs/bylaws.pdf>.

²⁰ See *The 65 Club: A Legacy of Distinguished Scholarship*, UC HASTINGS MAG. (Oct. 3, 2013), <http://www.uchastings.edu/news/articles/2013/10/65-club-magazine.php>.

²¹ The Age Discrimination in Employment Act of 1967 (ADEA), Pub. L. No. 90-202, codified at 29 U.S.C. §§ 621-634 (2012), forbids employment discrimination against anyone at least 40 years of age in the United States. 29 U.S.C. § 631(a) (2012).

The origins of the school are not just interesting historical tidbits; they tell a story about how the school sees itself in the world. It is precisely the type of narrative that *Lay Lawyering*²² tells us is worth knowing when we attempt to persuade others to engage in reform. UC Hastings stock characters are comprised of elite white male scholars and a respect for tradition is felt throughout the walls of the law school. Reform, without an understanding of that history, will fail. By understanding the make-up of the important stock characters, I was in a better position to develop a narrative that showed my appreciation of the past and the way it shaped the school. Importantly, I hoped to persuade my peers, through a stock story, to recognize that innovation was part of the legacy of UC Hastings. Innovation led to the creation of the 65 Club and I would then argue that it was time for the College to lead with bold ideas once again. I also recognized that reforms needed to maintain the congeniality that was a central value at UC Hastings.

UC Hastings is anomalous in other ways. It is the nation's only freestanding *public* law school. It is a part of the University of California system, yet, as explained previously, it is not governed by the Board of Regents for the University of California. Instead, it has its own Board of Directors and is not attached to a central university campus. Because it is freestanding, it has to support departments that most law schools have access to through their central university campus. UC Hastings runs its own health clinic, human resources department, fiscal department, campus police department,²³ cafeteria and general counsel's office. It also has its own chief financial officer. This structure makes the costs of running UC Hastings higher than those of its peer institutions. Conversely, it allows for changes to happen more easily. Reforms at UC Hastings do not need to go through central administration approval channels, such as a provost, president, and possibly, depending on the nature of the decision, a board of governors. The UC Hastings faculty, through their deans, can go directly to the Board of Directors to request budget increases for program changes and other reforms. And, making reforms often means additional resources or shifting costs. Consequently, I realized I needed to understand the mechanisms for shifting spending priorities. As López

²² See López, *Lay Lawyering*, *supra* note 7.

²³ Beginning in the fall of 2016, UC Hastings contracted out its police services to University of California San Francisco (UCSF). It still has to pay for these services but the officers are no longer employees of UC Hastings. *UC Hastings Entering Public Safety Partnership with UCSF Police Department* (June 22, 2016), <http://www.uchastings.edu/news/articles/2016/06/uchastings-ucsfpd-public-safety-partnership.php>. It is not yet clear if this is a cost savings.

pointed out in *Changing Systems, Changing Ourselves*,²⁴ knowing which spending priorities were developed purposely, as opposed to capricious choice or accidental design, would allow me to develop persuasive strategies for changing spending patterns.

The UC Hastings Board of Directors is comprised of eleven members who are appointed by the Governor of California and confirmed by the California State Senate. Each director serves a 12-year term.²⁵ Historically, the overwhelming majority of the board has been comprised of UC Hastings alumni. Currently, all board members, including the sitting heir of Serranus Hastings, are alumni of the College.²⁶ The board selects its own officers (a chair and vice-chair).²⁷ The college's general counsel serves as the board's secretary. There are four standing committees of the board: the Committee on Educational Policy, the Finance Committee, the Committee on College Relations (now referred to as "Advancement"), and an Executive Committee that consists of the board chair, vice-chair and the chairs of the other three standing committees.²⁸ The bylaws provide that both the Finance Committee and the Committee on College Relations are empowered to make recommendations to the board on matters pertaining to the fiscal management and fundraising of the College. The board then votes on these recommendations and sets policy accordingly. The Educational Policy Committee, however, is only empowered to report to the board on curricular changes, research and other academic matters, leaving decision-making on pedagogy and scholarship in the hands of the faculty.²⁹ Understanding the bylaws

²⁴ See López, *Changing Systems*, *supra* note 13.

²⁵ See BY-LAWS, *supra* note 6, §§ 5.1 – 5.3.

²⁶ See *UC Hastings Board of Directors*, UC HASTINGS COLLEGE OF THE LAW, <http://uchastings.edu/about/leadership/board/index.php> (last visited Sept. 7, 2017).

²⁷ See BY-LAWS, *supra* note 6, § 12.1.

²⁸ *Id.*, §§ 7.1, 7.2.

²⁹ BY-LAWS, *supra* note 6, §§ 8.1 – 8.3.

8.1. Committee on Educational Policy.

The Committee on Educational Policy shall:

(a) Consider and report to the Board on matters concerned with policies and programs related to the academic program, and the educational philosophy and objectives of the College, including academic planning, instruction, student admissions, relations with academic institutions and on academic personnel policies and faculty compensation.

8.2. Committee on Finance.

The Committee on Finance shall:

(a) Consider and make recommendations to the Board at least annually on all matters relating to the finances, financial planning, and business management of the College.

8.3. Committee on College Relations.

The Committee on College Relations shall:

(a) Consider recommendations from the Chancellor and Dean regarding all matters

provided me with information on how power is played out at the law school. Ascanio Piomelli, whose scholarship builds on rebellious lawyering theory, wrote about Foucault's concept of power and how it impacts collaborative lawyering.³⁰ Piomelli explains that power, according to Foucault, is not a "thing" but a relationship and process that at times is fluid and can be strategically moved, managed or shifted.³¹ I realized that the UC Hastings bylaws placed the responsibility for the finances and the fundraising squarely with the board, but moved the responsibility for the academic program to the faculty and its chief academic officer.³² Drawing upon Foucault's theory that power is a fluid process, I recognized that the power afforded the Educational Policy Committee was a vehicle for making structural changes and shifting finances to support those changes. Although the board was imbued with great power, that power could be shifted with strategic, engaged action by other forces within the UC Hastings community.

After studying the functioning of the board, I learned about the officers who govern the law school. The College has four officers that are selected by the board: the chancellor and dean, the academic dean, the chief financial officer (CFO) and the general counsel. The faculty provides input to the board for the selection of the chancellor and dean and the academic dean.³³

Because UC Hastings is a freestanding law school and a part of the University of California, its dean also acts as the school's chancel-

relating to fund raising, alumni affairs and public relations of the College, which require Board approval.

(b) Consider and make recommendations to the Board concerning the approval of all fund raising campaigns in excess of the Chancellor and Dean's authority as specified in the Standing Orders.

³⁰ See Ascanio Piomelli, *Foucault's Approach to Power: Its Allure and Limits for Collaborative Lawyering*, 2004 UTAH L.R. 395 (2004).

³¹ *Id.* at 420-424.

³² ABA Standards require that decisions regarding curriculum development and academic programs are made by the faculty. See AM. BAR ASSOC., ABA STANDARDS AND RULES OF PROCEDURE FOR THE APPROVAL OF LAW SCHOOLS, 2016-2017 (2016) Std. 201, https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf.

³³ See BY-LAWS, *supra* note 6, § 13.1. Officers of the College:

(a) Officers of the College shall be the Directors, Chancellor and Dean, Academic Dean, Chief Financial Officer, General Counsel and Secretary.

(b) Appointment and Continuation of Appointment. The Officers of the College, other than Directors, shall be appointed or continued by a majority vote of the Board and shall serve at the pleasure of the Board. Nothing in these By-Laws shall be construed to prevent the Board from entering into employment contracts with such officers for reasonable terms. Appointment or continuation of appointment of the Chancellor and Dean and Academic Dean shall be made with Faculty consultation as set forth in the Standing Orders and related Board Policies.

lor, performing the functions assigned to the chancellors of the nine other campuses in the UC system.³⁴ Those duties include serving as the point person to and liaison with the legislature, being responsible for all matters pertaining to the UC Hastings board of directors and its committees and providing fiscal oversight of the many departments that a freestanding law school has to support.³⁵ Building a collaborative partnership with the chancellor and dean³⁶ would be essential. The chancellor and dean was the bridge to the outside community. The board and the legislature were the policy makers that often wield power over the institution. The chancellor and dean was the person responsible for maintaining a positive working relationship with them, as well as with the alumni. In my attempt to become a rebellious dean, I recognized that the alumni were important constituents. They could serve as supporters and collaborators for a vision of a law school they wished they had attended. Moreover, they could show that support with their actions and contributions.

Unlike other law schools that typically have a dean and an associate dean, UC Hastings has an academic dean and an associate academic dean. Although the chancellor and dean is the chief executive officer of the entire College, the academic dean functions as the chief academic officer and has responsibility for many tasks that are typically done by the dean of a law school embedded in a larger campus.³⁷ However, the chancellor and dean, like his dean counterparts at other law schools, is the chief fundraiser. Technically, my ability to lead the academic program was found in the bylaws but I also knew from rebellious lawyering that change never came by simply relying on a technical rule — it required collaboration and input from those whose

³⁴ The University of California has the following campuses: UC Berkeley, UC Davis, UC Irvine, UCLA, UC Merced, UC Riverside, UC San Diego, UC San Francisco (medical and health science school), UC Santa Barbara, and UC Santa Cruz. *The Parts of UC: Campuses*, UNIV. OF CAL., <https://www.universityofcalifornia.edu/uc-system/parts-of-uc> (last visited Sept. 9, 2017).

³⁵ See BY-LAWS, *supra* note 6, § 15.1, which reads in part:

(c) The Chancellor and Dean shall:

(1) Report directly to the Board of Directors and attend all meetings of the Board and its Committees.

(2) Represent the College before the Legislature, other governmental agencies and departments, the alumni and the community.

(3) In cooperation with the Chief Financial Officer, be responsible for development and submission to the Board of the annual operating and capital budgets of the College.

(4) Be responsible for the operation and maintenance of College facilities.

³⁶ Because UC Hastings College of the Law is a freestanding law school, the head of the school is given the title of chancellor and dean. Throughout this article I use the term chancellor and dean or simply chancellor to refer to this position.

³⁷ BY-LAWS, *supra* note 6, § 15.2.

Fall 2017]

Rebellious Deaning

145

lives were affected by these changes: the faculty, the staff and the students. It meant working with the chancellor and dean on a vision; persuading the chancellor that we must strategically build a movement for change.

The organizational structure at UC Hastings has the chancellor and dean reporting directly to the board and the academic dean reporting to the chancellor and dean. The general counsel and chief financial officer have dual reporting lines, reporting to the chancellor and dean and the board of directors.³⁸ Mapping out the administrative structure of UC Hastings allowed me to gain an understanding of who held the levers of powers and how they exercised that power.

III. UNDERSTANDING HOW DECISIONS ARE MADE AT THE COLLEGE

My tenure as academic dean was my second administrative position at the College. I had served as the associate academic dean from 2000 to 2002. That experience helped me understand how many of the departments in the College functioned and how those departments interacted with the academic dean's office. While associate academic dean, I also attended a few board meetings and had a vague familiarity with how the board functioned, but I was not especially focused on the board's role or its influence. It all seemed removed from my day-to-day work.³⁹

As academic dean, I quickly realized that I needed to immerse myself more fully in the workings of the board. A few things stood out for me right away. By choosing alumni, we had a board that consisted of all lawyers. Moreover, they had familiarity with only one law school, their alma mater. The sole exception had been the prior heir to

³⁸ See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, STANDING ORDERS, 100.1. Line of Reporting, <http://www.uchastings.edu/about/leadership/board/board-documents/StandingOrdersWeb.pdf> (last amended, June 10, 2005).

The Chancellor and Dean shall be responsible directly to the Board. The Chief Financial Officer, General Counsel and Secretary shall report jointly to the Chancellor and Dean and to the Chair of the Board. The Academic Dean shall report to the Chancellor and Dean. These standards comport generally with the ABA Standards for accreditation. However, since most law schools are embedded within a university their finances are, in part, governed by central campus. The ABA Standards require that central campus administration provide regular reports of all charges incurred by a law school and compare those charges with income generated by the law school. Additionally, under the ABA Standards a law school may present its recommendations for its annual budget before it is set by the university administration. See *ABA Standards and Rules of Procedure for the Approval of Law Schools 2016-2017*, Standard 202.

³⁹ The associate academic dean is selected by the academic dean and confirmed by the faculty and concentrates on student issues ranging from exam scheduling, disability resources, academic support, and other challenges facing individual students.

Hastings, who was not a lawyer (although the current heir is). There were pros and cons to a board made up exclusively of alumni. On the one hand, the board members were very committed to the institution and cared deeply about its success. On the other hand, they had no basis for measuring how UC Hastings functioned compared to other law schools.

Another troubling aspect was the lack of diverse skills they brought to the board. The board had no one with deep financial understanding, no expert in marketing or fundraising, no educators who understood research, teaching and learning methods, etc. What we did have were dedicated alumni who were willing to put in a tremendous amount of time attending board and committee meetings. However, best practices for nonprofit boards advise organizations to think through the type of skills, knowledge and experience the organizations need and appoint board members accordingly.⁴⁰ I quickly observed that the Board made decisions based on the information provided to them by the College's officers: the chancellor and dean, the academic dean, the CFO and the general counsel. Controlling the information often meant controlling the outcome. Like all institutions — large and small, private, public or non-profit — their biggest responsibility was oversight of the budget. Who controls the purse controls the priorities for the school. I also learned what mattered most to the board: sound financial footing, good rankings, high bar passage, successful job placements for graduates and the physical condition of the campus (not necessarily in that order). At board meetings, members reminisced about their law school days. In listening to them, I began to appreciate the stock narratives and characters of their past — the distinguished members of the 65 Club, the crushing curve, the crowded and inadequate facilities, and the swagger that came with the belief that they had survived and succeeded in a cold, harsh environment. To persuade them that a new approach to legal education was a worthwhile goal was going to be a challenge, a challenge that could be overcome by relying on the theories found in *Lay Lawyering*.⁴¹

As the academic dean, oversight of the academic program was my main duty. I was responsible for managing the faculty, the student service departments such as the career office, admissions, financial aid, as well as the associate academic dean. The chancellor and dean, as discussed earlier, was the outside dean: working with the legislature, the many fundraising arms of the College and the board. The chancellor

⁴⁰ See *Finding the Right Board Members for Your Nonprofit*, NAT. COUNCIL OF NON-PROFITS, <https://www.councilofnonprofits.org/tools-resources/finding-the-right-board-members-your-nonprofit> (last visited Sept. 7, 2017).

⁴¹ See LÓPEZ, *Lay Lawyering*, *supra* note 7.

and dean also managed the other officers of the College. The general counsel was responsible for all legal matters that cropped up in the College and managed a huge portfolio. She reviewed and drafted contracts ranging from employing outside contractors and consultants to agreements governing the running of our centers. She dealt with dicey faculty and staff personnel matters, including union contract negotiations, terminations and claims of discrimination. She handled issues affecting students (harassment claims, expulsion cases, and charges of discrimination based on race, gender, disability, and sexual identity and orientation) and she served as secretary to the board. Faculty, students and staff all consulted her on any issue that had legal ramifications for the College. She served as the “go-to” in-house counsel. The general counsel was also an alumna of the College. She was familiar with the environment that the board members described, but as an African-American woman, she brought different sensibilities to that narrative. She saw the subtle and not so subtle discriminatory treatment of students of color and women by the 65 Club members. Unlike the board alumni, she was not wedded to the “good old days” and was able to envision a different approach to legal education.

The College officer, however, with clearly the greatest power was the CFO. He had the longest tenure on the senior staff and, because he reported to both the chancellor and the board, he had a longstanding and close relationship with the board. He was the member of the senior team the board trusted most. Not coincidentally, the fact that he was straight, white and male certainly helped their comfort, especially since no other member of the senior staff so closely matched the board members’ own identities.⁴² His portfolio included oversight of all matters fiscal, including putting together the annual budget, supervising the annual audit, and maintaining the physical plant, which includes an apartment building for student housing and a parking garage open to the public and its associated retail space. He also attended state legislative sessions where he presented the budgetary needs of the College and kept the board, through its Finance Committee, apprised of the financial health of the College. Additionally, the CFO had developed relationships with many of the community-based organizations and had a strong personal interest in redevelopment plans for the Civic Center and Tenderloin neighborhoods of San Francisco, where the law school sits. The CFO did not, however, see finding money to support the academic program as his primary duty. Instead, he saw his job as determining priorities for spending and imparting his vision for the school. His vision centered on improving the

⁴² See Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CAL. L. REV. 945 (2006).

school's physical plant.

Prior to assuming my post, I was invited by my predecessor to attend the annual budget hearings for the academic division. These hearings occur in spring, right before the CFO puts together the budget for the upcoming fiscal year that begins on July 1. At the hearing, each department that reports to the academic dean puts forth its proposed budget for the upcoming year, including any requests for increased funding. Those requests were then taken to the chancellor and dean who, along with the CFO, made the decision to grant or deny the increase. What troubled me about this process was that the chancellor did not work closely with any of the academic departments making the requests. The chancellor also was not present at the budget hearings when the department heads made the case for an increase, and therefore, undoubtedly relied on the CFO to set spending priorities. The CFO also had no true understanding of what these departments needed. Yet, his word carried the day. I made a note to myself that the academic dean needed to insert herself in this process since these decisions affect her department's programs and the academic health of the school. I knew that the members of my team — the faculty, department leaders and others — were eager to have more of an active role in determining the spending priorities of the law school. A rebellious approach would bring the voices of those affected by the decisions to the negotiating table.

I also attended a board meeting prior to assuming my post. Once again, I witnessed how central the CFO was to decisions being made by the board. Board members often asked him to weigh in on matters that were outside his expertise, sometimes encroaching on the province of the general counsel and academic dean. The CFO provided the board and the College officers with a packet of financial material about a week before each Board meeting. The material was dense and not easy to understand. I had a very strong sense that no one, other than the CFO and the controller, had a full understanding of our finances. Thus, I made a second note to myself: learn the finances.

The other powerful force within the law school was the faculty, the body with which I would work most closely. As the UC Hastings bylaws provided, the faculty maintained control of the academic program. The Board's power did not extend into the academic program.⁴³ The faculty, through its many committees, controlled how students were selected for admission, who was hired to join the faculty and who received tenure. It developed and approved courses, set the grading curve, determined how many units a student could spend on non-

⁴³ See *supra*, note 26.

classroom courses (including clinics), voted on whether a center could be added to the school, developed strategies for higher bar passage rates, and served on ad hoc committees to improve rankings, job placement, web design and more.

The staff, the people on the front lines, who do so much of the work that keeps a law school functioning, had little input in the running of the school. While many of the individual department directors ran their offices extremely well — developing strong teams and efficient processes — they were definitely the school's second-class citizens. The heads of certain departments sat on certain committees in an ex-officio capacity, but they did not get to vote on policy changes. While they could attend the open portion of faculty meetings, they seldom spoke unless asked to give a special report. Moreover, they were unable to vote on any matter, even those that directly affected their office. I had gotten to know some of the department heads and members of their staff when I was associate academic dean. I knew how devoted some of them were to our student body; how they worked tirelessly and creatively to try and develop programs like loan forgiveness for public interest graduates, an alumni mentor program for all students, easier and fairer ways to register for classes, massages and healthy snacks during finals, etc. By not having their input and ideas squarely on the table, the school was missing an opportunity. The role staff played reminded me of a central tenet in all of López's writings. The way they were treated is evidence of the failure of regnant institutions to learn from and work with the lay people who are often the true experts about what is needed in their community.

Then, of course, there is the student body — without which law schools cease to exist. Their centrality to the mission often seems lost to those in power. Much like the staff, the students had a limited role in deciding how their education would unfold. As a clinical teacher and former associate academic dean, my sense of the student body was that it was not a particularly happy lot. My term as academic dean coincided with the drastic rise in tuition for students attending UC law schools⁴⁴ and the ever diminishing job market, leaving graduates saddled with debt and without the job prospects they envisioned when they started their studies. I knew there were other challenges facing the student body. UC Hastings was a large school, making it hard to

⁴⁴ In 2005-06 academic year, when I became academic dean, the in-state tuition at UC Hastings was \$22,297 compared to private California schools whose tuitions hovered around \$33,000) and by 2012-13, the year I left, the in-state tuition was \$46,806 while private California law schools hovered around \$50,000). *The Last Gen X American: Law School Cost Data 1996-2014*, LAW SCHOOL TUITION BUBBLE, <https://lawschooltuitionbubble.wordpress.com/original-research-updated/the-lstb-data> (last visited Sept. 7, 2017).

sometimes get into certain classes. It also maintained a crushing curve. I knew it was imperative that the faculty and the College officers hear from the student body. They needed to hear the students' stories and understand their experiences at UC Hastings. I sensed that some members of the staff had heard them loud and clear and had tried to run their offices and programs in a way that met students' needs.

The law school ran like many of the offices depicted in *Rebellious Lawyering*, a hierarchy that had limited understanding of and input from the many constituencies central to its mission.⁴⁵ My vision was to bring these constituents together. I wanted them to hear one another's perspectives, learn from each other and begin to collaborate on creating a law school that thoughtfully mapped out a curriculum for training future lawyers, policy makers and public servants. I wanted our constituents to have a real pulse on the types of problems and challenges faced by lawyers and clients in the field. I wanted our faculty to produce scholarship that was written not just to impress tenure committees or a narrow group of scholars in the author's field, but to address and provide meaningful input to the pressing issues facing our society. Together, I wanted us to create a law school that provided essential services to students in an efficient and accessible way and did all it could to decrease students' debt and find them meaningful, well-paid jobs.⁴⁶ But first I needed to listen, listen, listen.

IV. FINDING OPPORTUNITY FOR MY VISION

My initial task was to build a solid team within the academic dean's office. The associate academic dean, a gifted teacher, scholar and a person who held sway with the entire faculty, was in his final year in the position.⁴⁷ I wanted to make the most of his time in the office.

And sometimes luck is with you. I worked with the most extraordinary administrators during my eight-year tenure. At the time of my arrival, the administrative assistant working with the associate aca-

⁴⁵ See LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, ch. 1.

⁴⁶ *Id.* at 70.

⁴⁷ Until 2009 UC Hastings had a practice of appointing associate academic deans from the faculty to serve 2-year terms. Generally the person appointed was a relatively recently tenured professor. The advantage of this system was that all those who served in the position had a heightened awareness of what it took to run the school, interacted with students who were experiencing personal and/or academic challenges, and therefore, became more empathetic members of the community. They also had to work with many of the departments serving students lessening the upstairs/downstairs nature of the school. However, it did not allow the associate academic dean to stay long enough to truly master the job, develop new and innovative programs or supervise any of the student departments. And, it was hard on students experiencing challenges during their law school career; they never dealt with one person and had to familiarize each new dean with their issues.

democratic dean retired and I had the chance to hire a new person. Working with my administrative assistant, we made a terrific hire: a person who cared deeply about her work and in this instance, deeply about the students in the many ways they presented themselves to the associate academic dean: the troubled, the gifted, the angry, the ones who failed to meet every deadline and the ones who felt each of their issues was the emergency of the day. She had a calm nature and that magic combination of wisdom, warmth and strength. She soothed students but demanded respect. She also brought organization to the busy schedule faced by the associate academic dean. The second member of the team had the daunting task of scheduling classes and keeping the course catalog up to date. She had started in her position in 2000, the same year I started as associate academic dean, so we had worked together seven years earlier. I knew she was terrific, but her skills and knowledge base had expanded tremendously in those intervening years. Not only did she try to accommodate the various scheduling wishes of the faculty, she understood the curriculum thoroughly. She knew the courses that could not conflict with one another. She was aware of the different concentrations⁴⁸ available to the student body and crafted a schedule that allowed students to complete those concentrations, which is not an easy task in a school with over 1300 students, limited classroom space, a relatively small permanent faculty and a huge adjunct cohort (over 100) who had constraints on their schedule. She did this all with a smile and an incredible magnetic board.

The last member of the team was my administrative assistant. My predecessor had hired her two years before I came on board. Her intellect, dedication, energy and emotional intelligence were truly remarkable. She understood the school, in its many parts, including the idiosyncratic nature of a faculty and the support it demanded as compared with the support it truly needed. She had a close and collaborative relationship with most departments in the school and shared her insights on their weaknesses and strengths. She knew the type of structure that our office needed to support our huge portfolio. Moreover, she had ideas — and plenty of them — to improve the school ranging from greater support of our adjunct faculty to better training of the faculty administrative staff so that they could take on more so-

⁴⁸ UC Hastings has a number of concentrations for its students; they function like specializations. When I became academic dean there were concentrations in Tax, Civil Litigation, International Law and Public Interest Law. Presently the concentrations include: Social Justice (formerly Public Interest), Civil Litigation and ADR, International Law, Environmental Law, Intellectual Property and Criminal Law. Students enrolled in a concentration must complete the concentration's required courses, take a certain number of the recommended courses and take a capstone seminar.

phisticated projects when working with the faculty. She understood that changing priorities meant changes in the budget and wanted more input at budget hearings. I had a partner.

The staff in the Academic Dean's office reminded me of many of the characters in *Rebellious Lawyering*.⁴⁹ Although not lawyers, they shared the traits of Sophie and Amos: they were immersed in their community. They knew the people with whom they worked, their valid complaints, their petty demands, their needs and their work habits. They brought an expertise that was often overlooked and not respected in the law school hierarchy. The staff also reminded me of the *Rebellious Lawyering* characters Dan Abrams and Etta Johnson:

Like most people, Etta and Dan frequently feel the impulse to take action on everything — all at once and right now. . . . Unlike most people, however, Etta and Dan actually spend their time trying to do something about all they encounter. They're not your standard parlor generals or field deserters. They're down in the mud and the muck, pitching in, helping out, doing what has to be done, time and again, about both "major" polices and minor traumas. If their work by its nature is often small scale, it is always big-spirited.⁵⁰

I spent my first few months meeting weekly with each member of my team — followed by monthly team meetings. Again, I listened. I wanted to know not only what each of them did to support the office, but what they believed was working poorly, what was working well and what new projects they thought we should take on. Not surprisingly, they all had ideas. The associate academic dean wanted to work with students and other faculty members to promote and improve racial and ethnic diversity in the school at all levels: in our curriculum, in the way we hired, in the way we oriented the students. His administrative assistant wanted to have regular town halls for the students. Her vision was that we would keep a student suggestion box outside the associate academic dean's office. The students could share their ideas in the box — complaints, new initiatives, anything — and we would then hold town halls where these topics would be discussed. The person managing the schedule wanted a schedule that worked better for the students and was driven less by the idiosyncratic desires of the faculty. The ideas for improving the school kept on coming. As they came in, with each other's input and help, we reached out to other members of the College community and began to experiment. Some experiments worked. Others failed.

One year into my tenure, we had a new schedule that worked

⁴⁹ LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, ch. 1.

⁵⁰ *Id.* at 276.

Fall 2017]

Rebellious Deaning

153

better for the students. We developed annual trainings for the adjuncts and a yearly reception that recognized their contributions to the school. We had a Faculty-Student Diversity Committee that began with a bang and ended with a whimper when the students failed to continue to participate. We held regular student town hall meetings and although few students took the time to use our suggestion box, they did show up at the meetings to voice their concerns. We were an office that continuously assessed and reassessed what we did and how we did it. Everyone was engaged in that process. We were working together in a rebellious fashion.

While I was building my team, I was also busy connecting with the faculty. I wanted to meet with each faculty member. I believed by working closely with the faculty, we could improve and make appropriate changes to the academic program together. I tucked away for the moment my observations about the strengths and weaknesses of the board and the power concentrated in the hands of the CFO. I wanted to engage the faculty in a conversation about the school. I wanted to learn from them what they thought we were doing well and what needed improvement. I asked my administrative assistant to schedule a one-on-one meeting with each member of the faculty during my first semester on the job. I clearly modeled my conversations after the staff attorney, “Helen,” described in *Rebellious Lawyering*. I, too, rehearsed “like hell so that routines feel natural and spontaneous, so that the two can pay attention to one another, listen to what’s being said, watch for how each other is responding, and adjust to differences, changes in tempo and unpredictable exchanges.”⁵¹ Each meeting lasted anywhere from one to two hours. I asked each member of the faculty the following questions:

What are you presently teaching?

How do you teach?

What are the important questions and cutting issues in your field?

What research/scholarship are you working on?

How does your research/scholarship affect lawyering or policies in the field?

What courses should we be offering our students?

Besides classroom time, how do you spend time with students?

What faculty/staff committees would you like to work on?

Who do you collaborate with at the College?

What are the challenges facing our students, our school?

How do we address those challenges?

If we had surplus in our budget, how should the school use it?

⁵¹ LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, at 143.

Although I tried to ensure that my basic questions were answered, I allowed each conversation to follow its own path. These were “structured improvisational conversations.” I listened. I really listened. To do this well, I tried to listen openly, as if I was meeting the person for the first time. I packed away, to the best of my ability, assumptions that I had made based on reputations, rumors and other unreliable sources.⁵² From listening, I learned much about my colleagues. Some of the conversations confirmed the obvious, but often I was surprised. I learned who seemed poised to make changes in the way they did things, take risks, work with others. I saw where we shared values, probed where there were competing values (*i.e.*, intelligible ideological and/or personal tensions) to see if there was any common ground or small circles of agreement. I also discovered that there were members of the faculty working on parallel projects, unaware of each other’s work and missing out on potentially helpful and perhaps critical collaborations.⁵³ Some faculty were assisting staff with admissions tasks, career counseling and placement, and academic support.

Those first six months were filled with meetings. In addition to the faculty, I met with the heads of the departments that reported to me. I engaged the department heads in the same type of “structured improvisational conversations.” I then started meeting, at their request, with other departments that reported to the chief administrative officer (CAO),⁵⁴ including student services, the records department, the career office, admissions and financial aid. The CAO had an odd portfolio: he was responsible for facilities, including the building maintenance department, the janitorial staff and security officers, along with the above-mentioned student services department. I learned that the departments delivering services to students felt like the stepchildren of the CAO. Moreover, they wanted more input into and access to the faculty. They wanted the faculty to work alongside them as they delivered services to the students. I made another note to myself: examine the organizational chart for functionality.

After finishing these meetings, the first thing I did was facilitate

⁵² *Id.* at 190.

⁵³ I learned that there were several faculty members working with UCSF on research, advocacy and service projects. We then embarked upon a formal collaboration with UCSF, called the UC Hastings/UCSF Consortium. The Consortium collaborates on health-related research projects and has classes for both law and medical students. Because of the work of the Consortium, UC Hastings now offers a Masters in the Study of Law (MSL degree) that is often pursued by health science students who need an understanding of the law for their work. Additionally, we have a Medical/Legal Clinic for seniors that is in a Senior Medical Clinic. UC Hastings has an Associate Dean who oversees the work of the Consortium.

⁵⁴ The Chief Administrative Officer position was eliminated permanently.

collaboration. Simply by letting members of the faculty know what each other was doing was a huge step. For example, many faculty were doing work with UCSF, the health science and medical school.⁵⁵ I was able to tell department heads which faculty to tap to help them with their work. Two professors began a monthly teaching roundtable where different ways of teaching and learning were explored. One particularly successful session was a discussion on how to integrate experiential exercises in doctrinal classes. Not only were there volunteers, one of the tax professors ended up writing an article about her experience.⁵⁶ The perception of the law school professor as a remote and separate island was beginning to fade.

A. *Crushing the Curve*

After interviewing all of my department heads and the entire faculty, I heard a recurring complaint: the curve is too stringent and punishing. The students, as evidenced by their complaints at town hall meetings, felt the same way. This issue appeared to be low-hanging fruit for a rebellious approach to change. My associate academic dean was soon stepping down and I asked, when he returned to the faculty in the summer, if he would head a student, faculty and staff committee to examine our curve and make a recommendation for change. He gladly took the assignment. I then asked other members of the faculty, heads of the records and career offices to join the former associate dean on the committee. I turned to the student government and asked that they appoint at least two student members to the team. I met with the committee only once. I told them what I had learned from my interviews, and then I turned it over to them. I told the chair I would be available as needed. What transpired was a community effort of learning, engagement and ultimate reform.

The Ad Hoc Committee for Reviewing the Curve (the Curve Committee) began its work by meeting and brainstorming. From what I was able to glean, the brainstorming consisted of listing pros and cons to the current curve, thinking about the type of information and research that was needed to analyze the curve and any potential changes, and then assigning information-gathering tasks. The Curve Committee wanted to know the effect of the curve on student morale, job placement and the faculty's ability to properly assess students. It gathered information on the curves from other schools, looked at job placement based on grades and sent surveys to students about their experience with the curve. After gathering information and perspec-

⁵⁵ See *supra* note 53.

⁵⁶ Heather M. Field, *Experiential Learning in a Lecture Class Exposing Students to the Skill of Giving Useful Tax Advice*, 9 *PITT. TAX REV.* 43 (2012).

tives from various constituencies, the committee developed a proposal for the faculty to vote on. But, what happened next both surprised and delighted me. Instead of the usual process of submitting the proposal to the faculty for a vote at an upcoming faculty meeting, the committee had a series of lunches with faculty, staff and students to discuss the proposal. The committee listened. Suggestions for changes were made and incorporated. Only after that input was obtained, did the committee submit the proposal to the faculty.

The entire Curve Committee was invited to attend the faculty meeting, and it was a spirited discussion. There were some who believed the proposal had not gone far enough and that grades and class rank should be eliminated altogether and replaced with a pass/high pass/fail system of some sort. There was also a handful who were strongly opposed to lowering the curve, even after learning that UC Hastings had one of the most rigid curves in the country. Changes and amendments to the proposal were debated and rejected. After these lengthy debates and votes on the proposed amendments, the faculty passed the proposal unanimously. Following the meeting, I asked those who had opposed the proposal why they had voted for the original proposal. The response was one that reflected the culture imparted from the 65 Club. They explained that once their ideas had been thoroughly debated and rejected by their peers, they felt they should defer to the work of the committee — it had done a thorough job and carried the day. In the end, although our curve was hardly any different than those at other law schools, the process by which we got there was noteworthy.

The process was inclusive and participatory.⁵⁷ It included some of the grounding principles of *Rebellious Lawyering*: getting input from the various constituencies that make up a community, doing the work (i.e., gathering information that is critical in helping develop a solution), brainstorming about proposed changes, tweaking them after getting input from your community, and then discussing the final proposal with the stakeholders present. It was not fully rebellious, however. In the end, under our Faculty Rules, and consistent with ABA Standards⁵⁸ only faculty voted on the proposal. A true transformative process would have allowed other members of the community to voice their opinion and vote, even if the vote was only advisory. Changing the republican form of government was a structural change outside the realm of this limited rebellious moment.

⁵⁷ Piomelli, *supra* note 3.

⁵⁸ UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, HASTINGS FACULTY RULES AND PROCEDURES, R. IIIA, <https://www.uchastings.edu/about/admin-offices/academic-dean/docs/12-13-faculty-rules-proc.pdf> (last updated May 2012).

B. A Curriculum Out of Control

In 2008, the UC Hastings course catalog undoubtedly resembled that of most law schools. It had a set first-year curriculum that allowed for little choice other than the selection of the first-year statutory class in the spring. It had many sections of “bar” courses and then a haphazard collection of courses on many, many topics and seminars that reflected the interests of the faculty. We had “skills” classes, clinics, and a number of concentrations.⁵⁹ There seemed to be little coherence behind this assortment of classes other than the fact that each course had been evaluated individually by the Curriculum Committee and voted upon by the faculty at the time it was proposed. We did have a handful of concentrations that students could specialize in and for those students there was a curricular roadmap. It seemed to this academic dean that the way we offered classes hardly met the needs of the students.

In 2010, I appointed as head of the Curriculum Committee someone I had identified as sharing my frustration with the sprawling curriculum during our initial meeting. I knew this member of the faculty was conscientious. If he took on a task, he did it thoughtfully and thoroughly. I asked him to identify other members of the faculty who should be on the committee. Together we put together a strong committee representing a cross-section of the faculty. The registrar and the administrator from my office in charge of scheduling sat as ex-officio members of the committee.

The Curriculum Committee had a huge task: to evaluate the curriculum and make recommendations for its coherence. I was deliberately hands-off in giving the charge. I wanted to hear what my colleagues thought should be done and how it should be done. They developed and executed a plan that was far more comprehensive than the one I envisioned. Again, brainstorming at the outset was the key. The committee decided that it would divide up the curriculum by subject matter or related fields of the law. They would then hold meetings for each subject matter, inviting professors to attend the meeting in their respective fields. Faculty members were encouraged to attend as many meetings as they considered relevant to their work. Clinicians were included in every session, and there was also a session devoted exclusively to clinic expansion. I feared that the faculty would not attend the meetings, but I underestimated the faculty. Almost everyone attended at least one meeting and many faculty members attended two or more.

The members of the Curriculum Committee took turns facilitat-

⁵⁹ See *supra* note 48.

ing the meetings. I attended some, but not all of the meetings. The committee had come up with a set of questions they wanted to cover at each meeting. The questions were designed to elicit specific answers to certain issues and allow for open discussion of other issues. Specifically, the committee asked their colleagues to explain the need for a course: is it still relevant in today's practice? They also asked what was missing from the curriculum: what skills or subject area knowledge did students need that we were not offering? They pushed faculty to talk about eliminating courses that were being offered because of tradition rather than function. At each meeting, the faculty was asked to have an open discussion about what courses they would advise students to take prior to graduation. Those discussions were often the most revealing. Once a faculty member was pushed to identify courses outside her area of expertise, a consensus emerged. The faculty concluded that students needed practical training and some understanding of international law and its effect on domestic law. They also should understand how regulatory and administrative systems work.

The work of the Curriculum Committee culminated in a report that listed all courses that should be included in the curriculum and identified which of those courses were missing. It also detailed the rationale for its decision and added to the course catalog a list of recommended or foundational courses for students. The committee also concluded that students needed better and more informed advising.⁶⁰ A by-product of the committee's work was to increase the cap on non-classroom courses and to allow more flexibility for students to take clinics and other experiential programs. As for a new course to be added to the curriculum, the faculty proposing the course could no longer simply say, "I am interested in this topic now so I want a class on it."⁶¹ They had to show that the course fit into the overall curriculum plan.

Like the changing of the curve, this process unfolded in ways that were a huge step forward for a law school and not in line with the regnant nature of prior decision-making. The faculty's many meetings were a true milestone for the institution: they were open, honest, brainstorming exchanges about how we educate UC Hastings students. A consensus was built around what was in the best interest of our students, and faculty members were forced to let go of their re-

⁶⁰ We then instituted a practice that devoted one faculty meeting to advising first year students. Most faculty members were given 10-12 first year advisees and each spring, at a regularly scheduled faculty meeting, the faculty spent that 60 minutes meeting with its advisees going over the course catalog and the recommendations it contained about planning their 3-year program.

⁶¹ The work of the Curriculum Committee culminated in a report to the academic dean and faculty dated April 22, 2011.

spective “turf” for the greater good. It was not perfect. Students and staff had virtually no voice in this process, something that I am sure felt perfectly right to the great majority of the faculty.⁶² However, the outside bar did. As a constituent that is often ignored by the law school, the inclusion of the bar was a significant step forward. The committee wanted to know from practitioners what they thought our students needed to learn and had meetings with different types of employers — large firms, boutique firms, government agencies and non-profit organizations. Input from the practicing bar was another step moving the law school toward an inclusive, rebellious process.⁶³

C. *Enlarging the Ruling Class*

After serving in my position for approximately 12-18 months, I realized I needed help. I needed a team who was working alongside me with other constituencies in the College. The position of chief administrative officer was phased out, leaving many more departments under the academic dean’s supervision. The school did not have robust, lively intellectual activities. There were few colloquia, symposia and opportunities to get feedback on works-in-progress. The faculty had expressed genuine interest in increasing experiential learning opportunities, but there was no one to help facilitate that growth. I did what is typical of any bureaucrat: I asked the faculty to allow me to add more bureaucrats. Over the course of many months, I asked the faculty and won approval to add an associate dean for research, an associate dean for experiential learning and to have the associate academic dean appointed for a term greater than two years and become responsible for supervising many of the departments now reporting to the academic dean’s office.⁶⁴

One could argue that I was the classic administrator engaging in empire building. From where I sat, I believed that I needed others to help me facilitate the engagement that was necessary to form a cohesive community. I could not do it alone. The people I asked to do the job were people I knew would do the hard work: thinking creatively and strategically about how to do their work; meeting regularly with their constituencies; getting their constituents’ ideas and feedback on how to develop programs; and researching best practices. I could then meet with my team individually or in groups to give my input, adding

⁶² Here we see an example of the “we know what is best for you” phenomenon and consistent with the way law schools traditionally think about the faculty’s exclusive role in setting curriculum.

⁶³ See LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, at 191-92.

⁶⁴ UC Hastings also had an associate dean for international and global programs, who developed eighteen foreign exchange programs and greatly improved our international law program.

to the circle of collaborators.

For the most part, the plan worked well. The associate academic dean, who was the point person for all student matters, especially challenges facing students, now oversaw the student services department, the records office and all the academic support programs, including the student disability office. This allowed for enhanced coordination and collaboration among the many departments supporting the student body.

The research dean turned out to be a creative, entrepreneurial leader with a tremendous amount of energy. An administrative assistant was hired to work with him on planning events. She became the fourth member of the administrative team serving the academic dean's office and, like her three other colleagues, she brought dedication, thoroughness, and new ideas to the office. Within months, the research dean, working with his administrator, had symposia and colloquia occurring weekly. Formal and informal gatherings took place where people shopped their works-in-progress. He included theoretical pieces, clinical scholarship, and papers advocating policy changes, legal history, and more. He also served as a source of support for the untenured faculty. He found mentors for them in their field. He encouraged them to present their works-in-progress. He read their pieces. He listened to their worries and helped protect their time. His administrative assistant worked with the student journals, and developed processes for them to follow when putting on symposia and conferences. Each spring, she met with the journal symposium editors and did a brief training.⁶⁵

The associate dean for experiential learning had a huge portfolio overseeing all the clinics, skills courses and the legal research and writing program. She wanted the clinical faculty to assess the curriculum, map out what classes we were offering, determine if they imparted the skills and knowledge that students needed, and figure out what was missing and needed to be added to the curriculum. She wanted to add clinics and skills classes strategically and she sought better integration of the so-called "doctrinal" classes with the "hands-on" learning classes. Her other goals included adding consistent, meaningful class instruction to externships and streamlining the

⁶⁵ The research dean had another passion: he wanted to develop a pipeline of diverse, future law students. Working with his administrative assistant, he began a summer program for youth, mostly low-income youth of color, where the students spent their mornings with classes and speakers introducing them to law study and their afternoons interning at law offices. The Dean and his assistant traveled to New York to learn about a non-profit organization that ran a comparable program and was thinking about expanding to the San Francisco bay area. In the end, the non-profit did open a program in San Francisco and UC Hastings discontinued its summer program.

processes for selecting students to participate in the many clinical programs. She also wanted to develop a meaningful pro bono program for our students: one that signaled to students from the moment they arrived at the law school that pro bono work was an integral part of their professional life. And, she believed that students who engaged in meaningful pro bono work should be recognized at graduation, alongside students receiving academic honors. She methodically worked with faculty, students, staff and the administration to accomplish her goals.

D. Developing a Strategic Plan

Throughout its history, UC Hastings College of the Law had developed many long-term plans that read a bit like a “to do” list. It had never, however, undertaken campus-wide strategic planning.⁶⁶ In 2010, Frank Wu was appointed as the chancellor and dean of UC Hastings College of the Law.⁶⁷ He promised to have the community develop a strategic plan when he took the position. I was thrilled and asked to be appointed by the board as one of its co-chairs. The board appointed me and asked the CFO to be my co-chair. He, in turn, asked the board to replace him with the controller and requested to be put in charge of undertaking a master plan for the campus. The board agreed. Two members of the board served on the Strategic Planning Committee along with two students, five faculty members and four staff members. An outside consultant, Sasaki and Associates, was hired to work with us.⁶⁸

My co-chair was a true partner. Although she had not spent much of her tenure at UC Hastings interacting with staff members outside the Fiscal Department, she was eager to jump in and learn. She and I mapped out a plan for our first meeting: we would brainstorm ideas for getting input from the entire community. After introductions and before we could frame our brainstorm, our agenda was immediately derailed. The students took the floor. They had a series of complaints, frustrations, ideas and suggestions. Their comments, for the most part, were spot on. They focused on the high cost of their education, the

⁶⁶ See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, STRATEGIC PLAN 3 (August 2011), <http://www.uchastings.edu/about/leadership/strategic-plan/index.php>.

⁶⁷ During my tenure as academic dean I worked with four chancellor and deans. Chancellor and Dean Mary Kay Kane was in her last year of a thirteen-year term when I started in 2005. She was succeeded by Chancellor and Dean Nell Newton who held the position from fall 2006 until spring 2009. In 2009 Leo Martinez served as Acting Chancellor and Dean for one year. He was succeeded by Frank Wu who was the Chancellor and Dean for my remaining three years.

⁶⁸ See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, STRATEGIC PLAN, *supra* note 66, at 10.

limited job market, the fall in the rankings, the need for still more practical courses, the lack of accessibility to some members of the faculty, the rigidity of certain departments and on and on. To my surprise, the controller, a person used to closely sticking to an agenda and working in a world where there are right and wrong answers, was as comfortable with the students' outbursts as I was. We let them rip. Their concerns later became the basis for many of the topics that the Strategic Plan ultimately addressed. Our reaction signaled to the committee that the students were to be taken seriously. A discussion ensued in which the other members of the committee continued to probe the students' concerns. The more the students saw genuine concern, the more open and constructive their comments.

If we had shut down the students and stuck to our agenda, we would have missed a golden opportunity to learn. Rebellious teaching reminds us to be flexible and open when we gather information, from interviewing a client to attending a community meeting. It is both important for the lawyer-expert to listen and learn, while simultaneously imparting the lawyer's knowledge to help the client — thereby further refining their understanding of the nature of the problem. That process is essential to developing a true collaboration.⁶⁹ Our initial meeting felt as though we were heading in the right direction.

The students' frustration turned out to be a perfect lead into what had been our agenda. It allowed others on the committee, particularly the staff, to voice their concerns with the way the school was run: insufficient access and opportunity to work with the faculty on problems facing students; lack of sufficient staff or other financial support for their programs; crushing workloads during certain times of the school year, etc. Their input, like that of the students, allowed me to ask the group, "How do we get similar input from the greater community?" We decided to organize separate focus groups for students, faculty and staff.

The focus groups were planned carefully. The goal was another structured but open conversation. At our meetings, we brainstormed about what should be included in these discussions. We wanted to hear people's ideas, frustrations, creative solutions and anger, as well as what we were doing well. We wanted to keep what was working and build on strengths. We then divided up who would lead the various sessions. Students were to lead the student-focused groups. The staff would lead the staff, and so on. We added alumni as another group that should meet. UC Hastings has a huge alumni base. By including them we not only help engage them in the school, but we learn

⁶⁹ See LÓPEZ, *REBELLIOUS LAWYERING*, *supra* note 1, at 172-73.

about what is going on in the field. We also developed an on-line survey that was available to faculty, staff, students and board members.⁷⁰

The focus groups and on-line survey came back with more information than we could easily distill. Our consultants were instrumental in helping us sort through it all. We sorted the information into eight topical areas that the Strategic Plan would address: (1) relevant curriculum, (2) meaningful scholarship, (3) market strength as shown through rankings, (4) building a community within and with our neighbors, (5) branding, (6) campus plan, (7) quality of services provided and (8) financial health. We then divided into groups based on these topics and pulled more people into the strategic planning process. Each group had a chair. We asked the associate dean for research to head up the group on scholarship and the communications director to head up branding. We asked the CFO to take on both campus plan and financial health. We assigned members of the Strategic Plan Task Force to the various groups and we enlarged each group by asking additional members of the staff, faculty and students to join one of the various groups. Each group was tasked to develop goals for their topic and objectives (i.e., the means for accomplishing those goals). The groups' chairs reported their progress at meetings of the entire Task Force during which we could ask questions, give feedback and make suggestions.

We then had full community meetings to go over the progress we had made and get input from the entire community: we had a student town hall, a faculty afternoon devoted to the proposed plan, a board luncheon with the strategic planning consultants and a meeting of the full staff. With input from everyone, the consultants, working with the committee, drafted a plan. The final plan read like most plans. It was aspirational and full of lofty words and ideas. I believed, however, that the time spent with the community developing the objectives for the plan gave us a shot at meaningful implementation. For example, Goal #1 was "create outstanding professionals ready to solve 21st century problems" and included specific objectives:

- Integrate elements of comparative law, experiential practice, problem-solving exercises, basic non-legal knowledge and ethics throughout the curriculum.
- Reduce class size to enhance educational experience.
- Develop a first-year lawyering/legal profession course to introduce all students to a broad set of lawyering skills and ethi-

⁷⁰ The survey had an unusually high response rate of 42%. In addition to the focus groups, the consultants interviewed individuals and groups at the College that included faculty, staff, students and board members. See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, *supra* note 66, at 10.

cal values.

- Ensure rich experiential learning and clinical opportunities for students interested in all realms of practice.
- Increase opportunities for student collaboration in research, writing and practice.
- Provide effective academic support to students in law school and in preparation for the bar.
- Develop a comprehensive student/faculty-advising program.
- Partner with students to help them identify and secure rewarding jobs.⁷¹

The second lofty goal, “produce engaged scholarship,” also had specific implementation plans:

- Support rigorous scholarship that will be valuable to scholars and practitioners.
- Promote scholarship through the strategic use of conferences, symposia, publications and blogs.
- Translate scholarly research for the broader legal community, policymakers and the public.
- Provide support to faculty to assist them in advancing and publicizing their scholarship.
- Develop the capacity to place timely op-ed articles.⁷²

Each of the goals was written in this fashion. After establishing the objectives, we set out more specific action plans. For example, we set numbers for the class reduction. We required faculty to show how they were incorporating experiential, comparative or ethical learning in their courses. New courses had to not only meet the criteria set out earlier by the Curriculum Committee, but they had to show how they were going to incorporate the new requirements of the Strategic Plan. We had meetings on how to make scholarship more accessible to the public and trainings on how to write op-eds. Two of the other goals of the plan were “service excellence” and “build a vibrant and connected community.”⁷³ Again, specific initiatives were developed so that departments serving students could better coordinate their services. Space was found for students to have a student hub. Also, the College initiated collaborations with other legal services and non-profit organizations in the Tenderloin neighborhood (a poor, marginalized community where UC Hastings College is located).

The completion of the Strategic Plan was a milestone for the College and for me. Although the goals, vision and implementation plan were not all I would have liked, it was a process that yielded a rela-

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

tively progressive vision. More importantly, a large part of the community had been truly engaged in the process and the experience had created a buzz around the campus. People felt proud of their accomplishment. I was riding high. I was particularly happy about the goals set for the academic program and the accompanying implementation plans.

I failed, however, to recognize what did not go well. The Board never participated as fully as we had hoped. Board representatives missed many meetings and their participation was pretty much limited to the meetings set by the consultants. The Strategic Plan did not take the time to develop a plan for funding its objectives. Moreover, while I was busy overseeing the Strategic Plan, the CFO was developing a Master Plan for the campus. Although a Master Plan Committee had been formed, the committee seldom met. The CFO, conferring almost exclusively with outside architects, designer and planners, developed the plans. There was little input from the stakeholders. While perhaps well intentioned, the plans reflected the CFO's vision of the needs for the College as a shining city in the Tenderloin with little connection to the mission and needs of the wider community. It was a typical example of a regnant process.

V. REFLECTION

The Strategic Plan was unveiled in August 2011. During the 2011-2012 academic year, the College, especially the academic division, was busy working to implement its part of the Plan. I was completing my seventh year as academic dean and my ninth year in administration. Feeling that my work had culminated with the completion of the Strategic Plan, I informed the chancellor and dean and the board of directors in the spring of 2012 that the 2012-2013 academic year would be my last as academic dean. The process for selecting my successor began in the fall of 2012.

As of the writing of this article, UC Hastings has returned in many ways to the type of law school it was prior to my tenure as academic dean. The chancellor and dean who began the Strategic Plan has stepped down. The faculty chair of the Strategic Plan, who succeeded me as academic dean, has left the College, as has the associate dean for experiential learning. The Strategic Plan is a document gathering dust on shelves and taking up space on the website. It is no longer being implemented. The buzz at the school, engineered by the CFO and championed by the board and new chancellor and dean, is the plan to build a new classroom building and additional student housing in collaboration with UCSF, to create an academic village. Although new facilities are exciting, additional housing and a new

classroom building do little to meet the goals of the Strategic Plan or the needs of the students. It is also not clear that the UC Hastings community, outside of the CFO, the board and the recently appointed chancellor, support these building projects or would have put them as a priority. Critically, the staff and student voices appear to be missing from the process.⁷⁴ And, although funding for the buildings appears to be secured through the state and private fundraising efforts, the Strategic Plan concluded that state and private fundraising efforts were to be devoted to academic programs, scholarships and post-graduate fellowships.

I have given considerable thought to why the changes were so short lived. Knowing that so much of the power was placed in the hands of the board, it should have occurred to me to build a strong relationship with that body and to engage it in the vision that was unfolding within the College. Although the board participated in the Strategic Plan, it did so at the periphery. As mentioned, the board representatives on the Strategic Planning Committee did not attend many of the full committee meetings and were not intimately involved in developing the objectives and action plans for the goals set out in the Plan. Knowing that every member of the board was an alumnus and often used her or his law school experience to evaluate program changes, I needed to educate the board about the way in which the Strategic Plan addressed the challenges facing today's students.

Rebellious deaning, just like rebellious lawyering, requires constant vigilance. It is possible that I would have never succeeded in bringing around the board, but regrettably, I did not make the effort to tell the persuasive stock story that may have carried the day. It would have been labor-intensive work. It would have required meeting one-on-one with members of the board, engaging in structured conversations, introducing them to students, faculty and staff who could best articulate why they supported the goals of the Strategic Plan — why it made a difference to their future, to the way they taught and provided services to the school. Maybe most importantly, I needed to use those conversations to convince the board that they needed to ensure that our finances aligned with the Plan. But, when it came to connecting with the board, I often put my head in the sand. I was discouraged by the amount of time and attention it would take to build a collaborative relationship with the board, so I avoided it. I rationalized that decision by reminding myself how hard I was already working.

⁷⁴ The survey conducted in connection with the Strategic Plan put building projects as one of the last priorities for the school.

Meanwhile, the CFO had developed a close relationship with the board. As the longest serving officer of the College, the board trusted him. While I avoided spending time with members of the Board, the CFO was doing just that, putting in time with individual members of the board, attending fundraising events and explaining his vision for the school and promoting his Master Plan for the campus. Despite my best efforts (and I put in the time here), the CFO never really took the time or had the desire to understand the academic program or make it the center of his budget planning. His interests and priorities were and remain focused on investing in the physical plant and improving the footprint of the College. His commitment to improving the neighborhood has been his consistent priority. His Master Plan for the campus, a plan with little input from the community, became the board's vision.

Another shortcoming of my leadership was not taking the time to learn the finances better. I did manage to change the budget process and to ensure that those whose programs were affected by budgetary changes had more of a voice and that I attended the meetings with the chancellor when final decisions were made. I never, however, did get a complete handle on the all of the College's expenses, different banking accounts and the limitations on our reserves. The mass of paperwork provided to the board and College officers by the CFO each quarter was difficult to decipher and I always put off doing the time consuming and detailed analysis that was necessary. I told myself that I had more pressing matters that needed my attention.

Rankings were another challenge for UC Hastings. During my tenure as academic dean, the College's rankings fell.⁷⁵ This brought consternation to the community: board, staff, faculty and students alike. Some of the factors used by U.S. News and Report were difficult for UC Hastings: the College had always had a high student-to-faculty ratio; it was one of the ways it compensated for the high costs of running a stand-alone law school. Playing to the LSAT/GPA ranking game would impinge on our Legal Educational Opportunity Program and our commitment to diversity, a historical commitment of the College and one that was reinforced in the Strategic Plan.⁷⁶ Moreover,

⁷⁵ UC Hastings was ranked by *U.S. News & World Report* as follows: 2005 39.5; 2006 46; 2007 39.5; 2008 39.5; 2010 42; 2011 42; 2012 44; 2013 48.

⁷⁶ "UC Hastings created the Legal Education Opportunity Program (LEOP) in 1969 to make a top-tier legal education accessible to those who come from significantly adverse backgrounds. The LEOP program recognizes that the traditional numeric criteria used to determine admissions may not be sufficient indicators of academic potential for students who have experienced significant obstacles — educational, economic, social, or physical — that have restricted access to academic opportunities and resources." See UNIV. OF CALIF. HASTINGS COLLEGE OF THE LAW, LEGAL EDUCATION OPPORTUNITY PROGRAM (LEOP),

the job market in the San Francisco Bay area was crushing. UC Hastings students faced competition from law students from around the country for limited job openings. Because of my intense dislike of rankings and their damaging effect on legal education, I ignored the College's decline in the rankings. I felt confident that the community would be content working together implementing the Strategic Plan and that eventually, better rankings would follow. I miscalculated. More time and attention should have been devoted to educating the community about the harmful effect on the needs of our students if we set program priorities simply to enhance rankings. Moreover, time and attention should have been devoted to improving the rankings in ways that did not compromise UC Hastings' values. For the board, who had not been as intimately involved in the Strategic Plan as we had hoped, the Strategic Plan may have seemed to be the reason for our decline in the rankings. Their commitment to the plan began to wane.

The faculty's changing composition also affected the College's commitment to the new vision. Over one dozen UC Hastings faculty have retired in the last four years. The faculty members who have left were among the last that had worked with the 65 Club and had adopted their sense of civility and congeniality. Moreover, many of them came of age in the 1960s and the progressive vision we developed during the Strategic Plan resonated with them. The younger faculty were committed to the Plan but were equally concerned with the standing of the law school and the way in which rankings affect their professional reputations. In an era where much of one's professional reputation is connected to the prestige of the law school where one teaches, the rankings often become a source of focus for the faculty. As explained earlier, a significant percentage of U.S. News and World Report rankings factors is based on the opinion of your faculty peers. Younger faculty wanted lighter teaching loads and money spent on their research needs. They did not feel they could afford the luxury of devoting time on Strategic Plan implementation, even if they supported the commitment to better student services, a well-planned curriculum, and other items found in the Plan. For those hired after the development of the Plan, there was little connection to the Plan.

With my departure came a successor. I was thrilled with the choice. She was smart, hard working and had been the faculty leader for the Strategic Plan. I knew she believed in the vision we had created. She spent a portion of my last semester shadowing me. Although

Fall 2017]

Rebellious Deaning

169

I was explicit about what we were trying to accomplish, I was not explicit about *how* one goes about implementing those changes. I did not explain the need for endless meetings, meetings that brought together the various segments of the community that needed to collaborate on implementing the Plan. I did not explain that the Plan was not fixed in stone. Implementation required continuous assessment and input from the stakeholders so that tweaks and changes could be made. I did not explain how hard change is, even for those who supported it. Moving anyone from familiar and comfortable practices is challenging. People need reassurance, support and an opportunity to reflect on what is working, not working or just damn difficult and outside their comfort level. Although she eventually figured much of this out, taking the time at the front end to explain the rebellious process would have helped the school from losing its initial enthusiasm for change. Unfortunately for us, just as she began to hit her stride, she was recruited away to become the president of a small liberal arts college.

Making change rebelliously requires a deep understanding of the forces impeding that change. At the “micro” level, one needs to understand the community in which the change is taking place. At UC Hastings, that meant dissecting the work and needs of the board, faculty, staff, students and alumni. But, for change to last, one must also understand the historical social, political and institutional forces that impede change at the “macro” level. Even if progressive changes are made to a law school, they will be short lived if macro forces are not addressed.

Law schools are built on a model that rewards individual, not collective action. The two primary activities of faculty are solo affairs: producing scholarship and teaching. Similarly, students are graded primarily on their individual performance on exams. While collaborative efforts take place in departments run by staff members, such as the career and admissions offices, faculty and students are generally not a part of that collaboration. Yes, there are exceptions. Students work in teams in clinics and simulated classes. Faculty work on committees, but for the most part, law school is the home of the rugged individual. To move a law school to a collaborative model breaks with an embedded tradition and there are few incentives for that to happen. Lasting change means changing the institutions that evaluate and regulate the academy: the ABA and AALS, as well as outlets that rank schools such as blogs and U.S. News and World Report.

As I reflect on the short-lived attempt at creating a “rebellious” law school, I would conclude by recognizing that I needed to collaborate with other like-minded administrators and begin the hard work of

tackling the macro forces that help maintain the regnant nature of legal education. But, for a very short moment, UC Hastings had the beginnings of rebellious change led by a rebellious dean.