

SO NOW YOU'RE A LAW PROFESSOR:
A LETTER FROM THE DEAN

*Frank T. Read**
*M.C. Mirow***

Read wrote this letter in 1988. Today, Mirow provides a dialogue with the text in the footnotes.¹

Dear New Colleague:

You've made a big step, resigned your excellent position with an established law firm (or left your post in a major

* Frank T. (Tom) Read stepped down from his fifth deanship in 2003. He began teaching at Duke Law School in 1968 and began his first deanship at the University of Tulsa College of Law in 1974. He also served as dean at the Indiana University School of Law – Indianapolis from 1979 to 1981, the University of Florida College of Law from 1981 to 1988, the University of California, Hastings College of the Law from 1988 to 1993, and South Texas College of Law from 1995 to 2003.

** Professor of Law and founding faculty member, FIU College of Law, Miami. I thank Ediberto Román and Howard Wasserman for their comments.

¹ Dean Tom Read gave a copy of this letter to Professor Matthew Mirow in 1999 when Mirow began teaching on the tenure-track. Read wrote the letter in 1988, and the legal academy had undergone substantial changes in the period from 1988 to 1999. Things have changed even more in the last decade. The last twenty years have witnessed the rise of technology in the legal academy. In 1988, lawyers and law professors got most of their information in print; computer databases of cases, statutes, and articles were in their infancy. From the standpoint of law professors, the internet was unknown. Computers were too big to bring into a classroom. Although technology accounts for many of the changes observed, it is not the only factor. Law school rankings, the increased sophistication of entry-level professors, and socio-economic aspects have also changed the legal academy over the past twenty years.

The original text of Read's letter is published here for the first time. It provides a window into the profession of teaching the law as it stood in the late 1980s. Observing some important shifts in legal education since then, Mirow has added some notes, which are the result of Mirow's observations at four law schools. His most recent law school, FIU in Miami, is unusual in that it was founded in 2002 and, as a new school, it is in a state of institutional flux. Mirow's personal observations are, of course, individual, but they may be indicative of more generalized trends in the academy. Read and Mirow hope that reflecting on the past of our profession will provide insights to help us negotiate the present and steer the future.

government agency or your clerkship with a prestigious judge)² and you've accepted an offer to become a brand new Assistant Professor of Law³ at one of the nation's 173 ABA accredited law schools,⁴ all of whom have assured you that they are in the top one-third of all ABA accredited law schools.⁵ You are eager and ready to begin. But, like all new employees beginning a new job, you have some doubts and some worries. Your days at your own law school convinced you that not all law professors are, in fact, equal. And, you have some fairly vivid memories of your treatment as a law student in class, or in an exam, that you have vowed that you would never engage in such conduct as a professor yourself. Your motivation is high. You want to be an excellent teacher, a renowned scholar and you want the independence that you are convinced comes with law teaching. But, still, in every human way, you want to be able "to get along" in your new law school environment.

This Letter is designed to provide some advice; candid, off-the-cuff advice, from an experienced (some would say "battered") law dean. One of my greatest joys as a dean—in fact, I think the most enjoyable thing of all—is hiring new people. For me, particularly, hiring entry level people is a

² Many entry-level law professors not only have the experience listed above but also have advanced degrees in law or related disciplines, have published books or articles in law reviews other than student works, and have taught as fellows or Visiting Assistant Professors at law schools with programs designed to groom future law teachers. This is often the result of new teachers having thought about teaching while in law school, or even going to law school with the aim of being law professors. Many successful candidates are the product of mentoring obtained at law schools, and law schools now often see part of their mission to place graduates into the academy.

³ At some law schools, it appears you start off as an Associate Professor of Law. By way of illustration, the following schools list no Assistant Professors of Law who appear to be on the tenure-track faculty: Boston University, George Washington University, New York Law School, Notre Dame, Southwestern, University of Miami, University of Virginia, and West Virginia University. ASSOCIATION OF AMERICAN LAW SCHOOLS, THE AALS DIRECTORY OF LAW TEACHERS 2007–2008 25–26, 64–66, 110–11, 120–21, 155–56, 177–78, 185 (2007).

⁴ There are now 200 ABA accredited schools. ABA Approved Law Schools, <http://www.abanet.org/legaied/approvedlawschools/approved.html>. (last visited Nov. 7, 2008).

⁵ In the past 20 years, rankings of law schools have become an economic and academic industry. A school can no longer merely assert that it sits in the top-third. It seems everyone now knows the U.S. News & World Report rankings, and other lists and methods now abound. Brian Leiter's Law School Rankings, <http://www.leiterrankings.com/> (last visited Nov. 10, 2008); Richard A. Posner, *Law School Rankings*, 81 IND. L.J. 13 (2006); *Fair Warning to Law Schools . . .*, 11 GREEN BAG 2D 139 (2008); Roger Williams University School of Law Study: Per Capita Productivity of Articles in Top Journals, 1993–2008, <http://law.rwu.edu/facultyproductivity/>.

great kick. Now, I confess, the hiring process itself is not a joy. Going to all of those interviews at the AALS “Meet Market” in Chicago in early December is no picnic.⁶ But, when you finally finish the arduous selection process, and you’ve made an offer to someone you really want, and that person has accepted, a dean feels almost like the farmer who has planted the seed, and waits eagerly for the harvest. For me, there is great anticipation every fall. I’m anxious to see those new people who are coming in.

In any law school, no matter how large, it is very rare to have more than one or two new teachers each fall. There are a few times in an institution’s history when more than that may be hired in one year, but it is rare.⁷ New folk are not only the apple of a dean’s eye. All existing faculty members look to them with a sense of anticipation. In short, you are a very important person to the law school to which you are going. In a real sense, you are the law school’s future.⁸ A dean to a large

⁶ The AALS Faculty Recruitment Conference is now held at the beginning of November in Washington. More and more law schools are jumping ahead of the conference by trying to identify, recruit, and interview select candidates before the conference. The “sheets” for the conference (distributions of The Faculty Appointments Register) tend to be the main resource for such early action. The practice has become so common that the AALS has addressed it in its Statement of Good Practices for the Recruitment and Hiring of Entry-Level Faculty Members, May 2007. Good practices now require that “[w]hen a law school identifies a candidate through the Faculty Appointments Register associated with the Faculty Recruitment Conference (FRC), it is unfair to the candidate and to other member schools to make an offer of employment to that candidate that expires in advance of the FRC.” ASSOCIATION OF AMERICAN LAW SCHOOLS, STATEMENT OF GOOD PRACTICES FOR THE RECRUITMENT AND HIRING OF ENTRY-LEVEL FACULTY MEMBERS (2007), http://www.aals.org/about_handbook_sgp_new_faculty_hiring.php.

Some elite schools promote their graduates for teaching positions by sending curricula vitae and supporting material directly to appointments committees. In an effort to increase diversity on faculties, some professors collect and distribute lists of underrepresented candidates. For example, the Latino/Latina Law Professors Network distributes the names and curricula vitae of Hispanic professional candidates to all recruitment committee chairs and to Latino and Latina professors at every law school in the United States. See Ediberto Roman & Christopher B. Carbot, *Freeriders and Diversity in the Legal Academy: A New Dirty Dozen List*, 83 IND. L.J. 1235 (2008).

⁷ When funds and institutional vision permit, law schools may go on a hiring blitz to mark a new direction and position for the school, perhaps even affecting its rank. Florida State University, the University of Alabama, and the University of San Diego come to mind as examples from the last ten years. I thank Howard Wasserman for this observation.

⁸ With the growth of a national market and a recognized structure of law school rankings, the new hire may quickly turn around to seek a better place—geographically, personally, or rankings-wise—through visits or lateral appointments almost immediately upon landing his or her first tenure-track position. In reality, a new hire may merely be a “rent-a-prof” who has no long-term commitment to the institution. Getting ahead can compete with improving the institution that hired you. If you are busy writing your way out of a place, there is usually little time to

extent measures his or her success by the quality of people hired during that dean's tenure.⁹ But, once you arrive, and the newness has worn off a bit, we tend to forget our responsibilities to you. Very few law schools have a truly effective way of transmitting standard advice to a new person. Frequently, a written copy of the tenure and promotion policy is placed in the person's hands, he or she is told that if problems occur be sure and ask questions, then the new teachers are left alone.¹⁰

This, then is my "conscience" letter. It is designed to soothe my own conscience for all the advice I did not give to all those new people I hired over many years. It is my hope that these random thoughts will be helpful to you. Obviously, like all "good advice" take it, or leave it, or laugh at it, as you are so disposed.

Gossip Factory. I was sincere when I said above that we, the faculty and the dean, are most interested in how well you get along. Unfortunately, I now need to tell you the sad truth about how we know about how well you are getting along. The delicate phrase we use in evidence when we refer to pure gossip is "general reputation in the community." Most of our knowledge about how well you are getting along is largely word of mouth gossip. Very few of your colleagues will end up actually visiting you in your classroom. In fact, in the performance of most of your duties you are largely going to be working alone. Deans hardly ever visit you—in fact at some places it would be viewed as a violation of your academic freedom for a dean to walk in your classroom. Some schools have elaborate peer review systems where there is visitation

build community. Besides, you may soon be gone. Nonetheless, part of getting out may also entail creating the perception that one is a team player and an institution builder so that reference calls to one's current institution will produce the desired result.

Furthermore, only some faculty members are able to engage in this practice. A single person may be able to leave for a year on a visit without much problem. The costs are much higher for employed couples, families, or faculty members with dependants.

⁹ Dean success is now measured by a number of external factors as well, including rankings, fundraising, and national exposure.

¹⁰ Institutionalized mentoring of new faculty has increased substantially in the past twenty years. I remember the shock I had when a junior tenure-track member of the faculty raised mentoring as a concern in light of an impending ABA self-study at one faculty meeting I attended in the 1990s. The response of a particularly curmudgeonly senior member was something like, "We hire the best and the brightest. We give you an office, a secretary, and a computer. What more mentoring do you need?" Dissent was silenced; a spirit was crushed. Now, however, faculties take mentoring seriously not only because the ABA and AALS raise the issue, but also because mentoring creates a better environment for all.

to new professors and sound advice given. That's probably the exception more than the rule. So we really don't know by first-hand knowledge how well you are teaching. We pick up bits and snippets, here and there, from students and other colleagues.¹¹ And, after a period of time those bits and pieces add up to a mosaic that might be referred to as the "institutional rap sheet" on you. So your first step into the law school teaching world has to be the jarring realization that your reputation will largely be based on gossip.

The Hard Evidence. While we really don't know how well you are teaching, except by gossip, we do know when you write. We can see the stuff. Occasionally, most of us even read some of it. In short, we have a way of knowing about the quality of your writing that is substantially more concrete than we have about the quality of your teaching. Some of our faculty members in the same field will tell us about the quality of the work and we can even refer your writing out to other experts in the field. In short, even in the area of your scholarship we operate on hearsay—but it's a considerable cut above the general gossip that goes on about teaching.¹²

The World is Not Fair. The two principal criteria that will judge your success are: 1) the quality of your teaching; and, 2) the quality of your scholarship.¹³ From the paragraphs

¹¹ Student teacher evaluations are now the norm. A dean will have the numbers to compare your teaching with others and with your past performance, as perceived by students. At many institutions, public access is available to these evaluations, often on-line. New sources of gossip and anecdotes have sprung up in the past 20 years. These include professor rating sites, like www.ratemyprofessor.com, and law school student blogs, like <http://www.fiulawnews.com/blog/>. A simple Google search can now tell a dean a lot about what a teacher is doing in and out of the classroom. For good gossip, Google and blogs rule.

¹² Quantitative evidence is now available with Westlaw and Lexis. Simple searches can provide counts of how many times you are cited ("hits") in other law review articles or cases. Google and Google Books can provide information on how often your work is cited in books. SSRN provides ranking information easily for downloaded abstracts and papers. Law school rankings often list what counts and, by implication, what does not count for the purposes of rank. *See supra* note 5. These determinations may affect, directly or indirectly, the expectations a faculty may have for its new hires. A junior faculty member who does not take this into account does so at his or her peril. Law librarians can construct searches and provide information on such things to a dean or faculty member at a moment's notice.

¹³ Sadly, at most institutions—even those espousing "excellence in teaching" as a goal—scholarship is now king. Teaching takes a distant second place. No one in the past twenty years has heard of a promotion or a lateral move based solely on "excellence in teaching." The rise of the possibility of tenure for clinical and skills faculty, as well as the existence of unitary tenure-tracks in some law schools, in the past twenty years has added complexity to the scholarship calculation. To what extent similar or different scholarship is required for advancement and tenure of these teachers is addressed by individual faculties. Of course, some clinical and

above, you will discover that the evidence about your performance in both areas is largely based on hearsay. That may not be fair but that is the way the world works. There is, however, a grain of solace in all of this. The hearsay, even the hearsay about your teaching (make that the gossip about your teaching) is surprisingly accurate. Whenever you live in a small community, and most law faculties probably run from 20 to 35, with a few in the 50 to 60 range, law teachers know each other pretty well. We office down the hall from one another. We hear students talk about one another, although we rarely hear them talk about us personally to our faces, and we surely hear what our colleagues say about each other.¹⁴ Over a relatively short time the “rap sheet” referred to above, evolves. I don’t believe I am being a Polly Anna when I assert that it is surprisingly reliable. Therefore, in the paragraphs below, when I talk about the expectations you are expected to fulfill, it is important for you to understand how we have determined whether or not you have fulfilled those expectations. And, the hard truth is that to a large extent our understanding of you is based on pure hearsay.

The Expectations Game. Let’s now talk a little bit about what others expect of you. Let’s look at you through the eyes of others and determine what they think it is you ought to be doing.

a) The Dean. Let’s first look at you through the eyes of the dean. Now, deans come in a wide variety of types, so I am going to generalize considerably. But I think the generalizations are largely true. First of all, the dean wants you to put in regular hours. By that he¹⁵ means he wants you to be visible, seen and available for colleagues and students. He would like you to be available when he picks up the phone.¹⁶ Now that doesn’t mean that you punch a clock. In this business you probably have more control over your schedule than you would in any other profession; you largely are your own boss except for your scheduled teaching hours. But you still need to put in “regular hours.” It is a serious mistake to start playing the “I work better at home” routine. Too many young teachers have foundered on the excuse that “I write better at home because there are fewer interruptions.”

skills faculty members excel at “traditional” scholarship.

¹⁴ In theory, see *infra* note 17 and accompanying text.

¹⁵ When written, the letter used only the masculine pronoun. Both authors agree that gender-neutral pronouns are now correct.

¹⁶ Technology has solved this problem. Many teachers simply forward office calls automatically to their cell phones. One always appears on duty when the dean calls.

Or, "I prepare better for class at home because there are fewer interruptions." Don't expect that posting a few regular office hours, and being in one or two hours a day, other than your teaching schedule, will do it. Deans like to think that you are paid for a full day's work and thus you are expected to be there most of the time. Archaic as that thought is, it is still probably true. It is important to note that new teachers, who are gone most of the time and thus aren't visible to their colleagues and students, also engender considerable suspicion among those same colleagues. Persons who aren't present aren't there to answer the phone, messages go a long time unanswered, students can't find them; and ultimately, it is going to take a great deal of persuasion to convince either colleagues or the dean that you are really at home writing the opus of the western legal world.¹⁷

Secondly, deans want you to write "lots of good stuff."¹⁸

¹⁷ I am not sure this is now true. Many of my colleagues and several administrators work almost entirely at home. Junior faculty members, who should care, and senior members, who care less, behave the same way. Technology, they argue, makes coming to work rather passé. Email, cell phones, the internet, and Lexis and Westlaw access at home mean that one *can* write the "opus of law" at home. Couple these changes with long commutes, high gas prices, difficult faculty parking, evening teaching assignments, pesky students, and empty halls at work and one has few incentives to be present for anything other than the mandatory class, committee meeting, and student conference. Concerning working at home, Stanley Fish writes:

I could, if I were asked, give the all-purpose, expected, and perfectly acceptable answer: "I always work at home."

But home is not where the work is; home is not where the students are; home is not where the colleagues are; and where the community might be formed. Working at home (if that's really what's going on; who's to know?) is a way to default on the responsibilities we take on when we agree to accept a paycheck.

Stay-at-home moms are one thing, stay-at-home state employees are another.

Stanley Fish, *What did you do all day?*, CHRONICLE OF HIGHER EDUCATION, Nov. 26, 2004, <http://chronicle.com/weekly/v51/i14/14c00201.htm>.

The attraction to "coming in," should be the intellectual community of the place. This can have both formal, structured aspects, such as talks, workshops, and meals funded by the institution, as well as informal chance discussions and interactions. Technology has made substitute intellectual communities through Facebook, blogs and the like, a fulfilling alternative for some, but not all. The problem is not exclusive to law schools. See JANE TOMPKINS, *A LIFE IN SCHOOL: WHAT THE TEACHER LEARNED 184-94* (1996).

¹⁸ "Good," will often have less to do with the content of the work and more with its placement in a highly ranked law review. Placing law review articles has become an art and the system is stacked against certain topics and faculty at lower ranked law schools. Jason P. Nance & Dylan J. Steinberg, *The Law Review Selection Process: Results from a National Study*, 71 ALB. L. REV. 565 (2008); Philip F. Postlewaite, *Publish or Perish: The Paradox*, 50 J. LEGAL EDUC. 157, 168 (2000); Dan Subotnik & Glen Lazar, *Deconstructing The Rejection Letter: A Look at Elitism in Article Selection*, 49 J. LEGAL EDUC. 601, 605-09 (1999); William J. Turnier, *Tax (and Lots of Other) Scholars Need Not Apply: The Changing Venue for Scholarship*,

The bottom line of survival in this business, particularly if you are at a school striving for a standing in the community of law schools, is that they expect young people to write.¹⁹ Law school teachers have relatively light teaching loads, at least compared to what goes on in other disciplines.²⁰ It is recognized that preparing law teaching is more difficult than preparing for teaching in some other disciplines. Nevertheless, after a couple of years or so, preparing for class is in fact easier. It should not take a full-time effort. Therefore, if you don't write, deans are terribly suspicious that you are not putting in a full day's work for a full day's pay. And, when it comes to tenure time, believe me, the major

50 J. LEGAL EDUC. 189 (2000).

In the late 1980s, the practice of "trading up"—using one offer to publish from a law review to entice a higher ranked review to make an offer based on an "expedited review"—was debated among authors. Some believed the process was unethical and ascribed to a school that accepted the first offer, regardless of rank. Trading up with "expedites" is now an institutionalized practice. Expresso, a law review manuscript submission system used by many authors, now makes the process as easy as a click of a button.

"Good" may also mean shorter in length than it did twenty years ago. Top journals now prefer articles that are forty to seventy journal pages. Guidelines for Submitting Manuscripts, <http://www.harvardlawreview.org/manuscript.shtml> (last visited May 18, 2009). This reform may not go far enough. Alan Watson notes that required length of articles for the purposes of tenure and promotion, and accepted as a standard in the United States, serves to bury brilliant ideas in a "surrounding morass of trivia." Indeed, based on the practice of other disciplines and legal faculties outside the United States, Watson argues for the abolition of student-edited law reviews. ALAN WATSON, *THE SHAME OF AMERICAN LEGAL EDUCATION* xx, 89–95, 197–98 (2006). Although the debate about student-edited law reviews continues, it seems that in the past twenty years they have proliferated. Indeed, most new law schools replicate the standard form and established schools add more and more specialty "secondary" (after the main law review) journals.

There are some peer-reviewed journals, but mostly in interdisciplinary areas. See, e.g., *AMERICAN JOURNAL OF COMPARATIVE LAW*, *AMERICAN JOURNAL OF LEGAL HISTORY*, *JOURNAL OF EMPIRICAL LEGAL STUDIES*, *JOURNAL OF LEGAL EDUCATION*, *LAW & HISTORY REVIEW*, and *LAW & SOCIETY REVIEW*. It may be that both the proliferation of secondary journals and the slow introduction of peer-review journals are the result of the increasing number of Ph.D.s in the legal academy who wish to undertake interdisciplinary work and who, in the case of peer-reviewed journals, seek recognition for their work outside the law faculty through journals that subject their articles to review by other academics in the field.

¹⁹ There may be growing pressure for the more senior members of the faculty to write as well. One respected publication has just announced a "Deadwood Study" that seeks to compare faculty performance to the boasts of "law porn," glossy brochures often sent out by law schools immediately before the U.S. News and World Report surveys are sent. *Fair Warning to Law Schools . . .*, *supra* note 5. For "law-porn" see more bad neology, "law porn," <http://blogs.law.harvard.edu/ethicalesq/2005/10/26/more-bad-neology-law-porn/> (Oct. 26, 2005, 2:50 p.m.).

²⁰ Indeed, to create more time to write, many upper schools have even lighter teaching loads than the standard 12 or so hours a year and have instituted systems of course banking where a professor teaches an overload one semester to have a lighter load another.

thing that will be discussed by your colleagues is the quality of the material you have preserved in published form. Now it is my experience that most deans are more liberal than faculty members about what you publish, or the style that you employ. Basically they just want you to be busy, and prove you have been busy, by showing your work. Like badges of honor, deans brag about the articles published by their faculty.²¹ If we have hired a fleet of young ones who have all published extensively, we take credit for that perpetually. You can probably find us trying to persuade Saint Peter that the published works of our young faculty should compel we deans past the pearly gates. The corollary is that if we don't get published work, we get very antsy very quickly. Remember how we find out how you are doing. Teaching quality is based on pure gossip. While the quality of your written work is largely based on the hearsay and sometimes we even take a look at the stuff ourselves.

Deans also want you to teach well. By teaching well we really want occasionally to hear a complimentary word or two about you in the halls. We also want not to have delegations of students in our office. We also want to see at least reasonable subscriptions of students to your elective courses. But basically, we're again relying on gossip.²²

²¹ Question whether the book is becoming the new article. Law schools now brag about books too, particularly university press books. Rankings based on scholarship now shape this debate. In some rankings, only certain law reviews count; or if books are counted, on certain university presses count. See Postlewaite, *supra* note 18, at 169; Roger Williams University School of Law Study: Per Capita Productivity of Articles in Top Journals, 1993–2008, *supra* note 5.

²² Except for some national reports issued every dozen years or so, the profession continues to be rather unreflective about the structure and content of the curriculum we offer our students. See WATSON, *supra* note 18, at 69–78. Various reports aim for improvement, but for most of us, the content of state bar examinations have a strangle hold on the overall structure and content of our curricula. See, e.g., AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter MacCrate Report]; AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS (1979) [hereinafter Cramton Report]; ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION (2007) [hereinafter Best Practices]; WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter Carnegie Report].

As law professors, we are uncertain about what we do, and there is no consensus, even among faculty members at the same school, of whether law schools are places of academic thought or trade preparation, or of whether the two approaches can be honestly balanced or combined. Stanly Fish writes:

The question “is it academic or is it job training?” is endlessly debated in the world of law schools, where there is an inverse relationship between hands-on training (of the kind apprentices used to receive before there were

Lastly, deans want you to serve on endless committees and be available to do many little duties that make an institution go. Some of that is important. Frankly, a lot of it is foolishness. Nevertheless, it is not unfair to expect you to carry your fair weight. But deans, like all employers, have a tendency to overwork the willing workhorse. You need to remember always that the main game is played in the classroom and in the library.²³ It is teaching and writing that spell success or failure. If the dean is overworking you on committee assignments, you need to let her or him know. This is a particular risk for young minority or female faculty members. The harsh fact is that you don't get tenure on how many committees you've served on. Don't get into the business of thinking that the state legislature, or the board of trustees if it is a private institution, is paying you your annual salary to serve with six or seven other highly paid professors to do mainly administrative detail. They expect that the salary they pay you is largely going into teaching and scholarship. And in his or her heart of hearts, even though the dean may want to overwork you, the dean knows that as well. Good deans value teaching and scholarship as much as

law schools) and prestige. . . . It is commonplace for graduates of top-ten law schools to report that the law school experience left them unprepared to deal with the tasks and problems they encountered as working lawyers. In response, a law school faculty might reply—and by so replying reinforce the distinction I have been insisting on—“We are intellectuals, not mechanics; what we do is teach you how to think about things we think about, and what we prepare you for is life as a law professor; that's our job. The rest you get elsewhere.”

STANLEY FISH, *SAVE THE WORLD ON YOUR OWN TIME* 22 (2008).

Perhaps Alan Watson describes the dilemma most succinctly, “We proudly claim not to be trade schools, but that is what we are. The denial makes it inevitable that we fail to be efficient trade schools.” WATSON, *supra* note 18 at ix. Watson, however, does not think the highest goal of legal education should be even an efficient trade school. His conclusions are remarkably similar to Fish's. Noting his high opinion of plumbers, Watson writes, “Law school teaches how to be a plumber and not a philosopher. But it is precisely in school that one should be exposed to the wider, theoretical, aspects of the subject.” *Id.* at 69 (footnote omitted). The tension has often been described as one between “liberal education” and “professional education” or even “professionalism.” Thomas E. Baker, *Reflections on Law Schools and the Idea of the University*, 1 *FIU L. REV.* 1, 7–17 (2006). Is it any wonder that with a fragmented sense of mission, many of us also tend to be unreflective about the materials we use and what classroom methods work the best? We are mostly products of law-professor producing law schools, but teach outside of these prestigious schools; our students become lawyers.

²³ Library? There is an unwitting irony that as books within the legal academy become more important in assessing scholarly production, law libraries have become comfy study halls with good internet connections for law students, a place to spend time between or after classes. My colleagues do no work there. When I walk through our law library in search of—yes—a book, my students look at me and think, “Poor aging Mirow, he has lost his way.”

their faculty colleagues. There are a few pet things that some deans like. For example, I like my faculty to go to graduation ceremonies. I don't tell them they have to go, but I like them there. It is at institutional ceremonies that you really get the feeling of what you are about. Most institutional ceremonial functions are routine and boring. But they don't come that often and some participation in them gives the dean a feeling of your institutional commitment.²⁴

b) Faculty Expectations. What do your colleagues want of you as a new professor? Well, they want you to be a stimulating companion. It would be great if you are a good conversationalist with the lunch crowd.²⁵ Some colleagues want you not to rock any sacred boats or offend any institutional traditions. They want you to write lots of good stuff too.²⁶ Some want you to be on their side in all major faculty wars. They obviously don't want you to be on anybody else's side during major faculty wars. The problem is that sometimes they war with one another. They want you to create no problems in the sense that they do not expect the new faculty member to wear the hat of the great reformer in the first year or two. It is sometimes a mistake to take the position that all things in the law school world are bad and should be changed in the first year or two of your tenure there. It is truly not the situation of the child who is told to be "seen and not heard." Young faculty colleagues are respected and, frankly, at most places are encouraged to speak up. But too

²⁴ The *Green Bag* agrees. It recently ran the following announcement for illustrations for its Deadwood Report:

We would like to illustrate the Deadwood Report. Perhaps with pictures of law school commencement ceremonies. After all, one way to get a sense of how seriously your professors take their teaching responsibilities and their students' accomplishments is by monitoring their willingness to spend one weekend afternoon each year honoring their graduating students. To that end we encourage you to attend your school's spring 2008 graduation and take a high-resolution, in-focus photograph of the faculty in attendance. (They will probably be on the stage or in the first few rows of the audience, and they will definitely be wearing robes.) Please send us the image, along with a caption identifying everyone sitting on stage or in the faculty section. If we use your photo—and perhaps even if we don't—we will send you an entertaining Green Bag knickknack. Of course, we will not identify a photographer by name in the Deadwood Report unless we have permission from the photographer.

... *And an Invitation to 1Ls, 2Ls, & 3Ls*, 11 GREEN BAG 2D 145 (2008).

²⁵ It appears that in some faculties, colleagues do not want stimulating companionship, they want to be left alone. See *supra* note 17.

²⁶ Some faculty members worry about being shown up by better or more productive scholars. They fail to see that even if they publish few items or items of poor quality, efforts of others improve the reputation of their law school, and indirectly, their own reputation by being at a place where people are productive.

many strident demands, made too early before one understands fully the institutional mores, can be dangerous. Remember that there are very few new ideas. Most issues that you may feel strongly about probably have been debated ad nauseam. For example, if within the first month or so of your teaching career you want to change the grading system, or you want the teaching hour to go from 50 minutes to 60 minutes, or vice versa, or you want the teaching calendar changed, you can expect that that issue may have arisen in the past.²⁷ There may be scars on those issues that you need to find out about before you jump in too vigorously. Most of your senior colleagues have seen it all and heard it all. It is wise to get an institutional sense of where the debate has gone, and what the past history is, before staking yourself out too quickly.

Now, a candid word or two of advice about colleagues. You are going to need them. Most of them, from the very beginning, truly want to be on your side. They are, in fact, going to get to know you very well indeed because of the smallness of the community—even though their knowledge is based, as indicated above, largely on hearsay. Like the dean, they like you to be around and they like you to serve your fair share on committee assignments. They also want to help. When you want a colleague to read a draft of your first article, most are delighted to do so. They appreciate young colleagues asking for advice and counsel—in fact, most are flattered when you drop by.

Perhaps it would be wise to say a word or two more to you about a sense of isolation that occurs to many young people beginning a law teaching career. In most faculties it is rare to have more than one or two people in a particular teaching area. You operate largely alone in your own office.²⁸ Your colleagues also operate largely alone, and, they have been there a lot longer than you have. They've gotten used to operating in a solitary environment. If you can encourage them, find out what they are writing, drop by and show an interest in their thoughts, it will help you enormously in your efforts to become a part of the institution. If you've been there when they need you, they will be there when you need them.

²⁷ The fifty-minute/sixty-minute hour debate has to do with how a law school meets ABA Standard 304 that requires an academic year of at least 130 days and a total instruction time of at least, I am not kidding, 58,000 minutes. AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, 2008–2009 STANDARDS FOR APPROVAL OF LAW SCHOOLS (2008), <http://www.abanet.org/legaled/standards/standards.html>.

²⁸ Or at home.

Communication, as the old wag said, is always a two-way street. Too many young faculty members are heard to say, "I was there a year and nobody got to know me. Nobody expressed any interest in me. Nobody invited me out to their home. It was as if I had fallen off the end of the earth." A young colleague who has those experiences should ask the following questions: Did I seek any of them out for advice or counsel? Did I express interest in what they were doing? Again, colleagues like to assume the senior uncle or the senior aunt role. Hint: If they've given you advice and counsel they have a stake in your success.

c) Students. Law students are tremendously kind, caring and understanding. They know you are new. They are willing to give you a week or two to get your feet on the ground. Then, however, if you are not as good as the senior colleague down the hall who has taught 20 years and is a star classroom performer, you are simply a hopeless loss and the institution made a bad hiring mistake. In short, the students are interested primarily in the teaching function. They are all adults, they have invested a lot of time and money to be there, and they have very little patience with new teachers struggling to learn the system. Therefore, another hard fact about this business is, "early impressions are very important." You need to control those early experiences in the classroom.²⁹ You cannot expect to be a good Socratic technician immediately.³⁰ You may have to go in the first two classes with an extraordinarily well organized lecture format where occasionally you ask questions. You need, in short, to maintain control. You may have to modify techniques that you may later want to develop in different directions. You are making a very bad mistake if you have simply read a series of law review articles, the material in the casebook, and then go

²⁹ A recent hot topic is banning laptops from the classroom. Kevin Yamamoto, *Banning Laptops in the Classroom: Is it Worth the Hassles?*, 57 J. LEGAL EDUC. 477 (2007).

³⁰ Use of traditional Socratic method in law school teaching has declined in the past twenty years. Peter Wendel & Robert Popovich, *The State of the Property Course: A Statistical Analysis*, 56 J. LEGAL EDUC. 216, 238-43 (2006). Indeed, the method now has its forceful detractors. Alan Watson uses the phrase "teaching by terror" to describe the method. WATSON, *supra* note 18, at 48. One report enjoins "Do not intentionally humiliate or embarrass students." STUCKEY ET AL., *supra* note 22, at 216; *see also* Debra Moss Curtis, *Everything I Wanted to Know About Teaching Law School I Learned From Being a Kindergarten Teacher: Ethics in the Law School Classroom*, 2006 BYU EDUC. & L.J. 455, 481-82; Peggy Cooper Davis & Elizabeth Ehrenfest Steinglass, *A Dialogue about Socratic Teaching*, 23 N.Y.U. REV. L. & SOC. CHANGE 249 (1997). Are students now "embarrassed" when they are told they are wrong or "humiliated" when their unpreparedness or fiddling with computers are revealed by a diligent professor?

in and try to teach. We give far too little credit, in the law teaching world, to the other disciplines that train teachers. But those disciplines have some important things to say. Example: organized lesson plans are truly not a bad idea.

Students are also different in the sense that they don't care whether you write lots of good stuff. Unlike deans and faculty, they could care less if you publish. Furthermore, on the surface they want you to be a "hail fellow well met." But below the surface they are very uncomfortable around a young teacher who tries to be too buddy buddy with them. A too friendly, too casual or too informal demeanor, early on, and you may lose the respect your position demands. And, a hard word of advice, anyone who develops too close a personal relationship with a student is an absolute fool. And here I'm not just talking about disobeying law school rules, or invading your personal life, I'm talking about how you get along in the law school environment. More deans and faculties have had more difficult experiences with colleagues who have developed close personal relationships with students than they would care to admit. Problems brought on by close personal attachments between a student and a faculty member are excruciatingly difficult. You are going to be in a power position vis-à-vis students and if a situation develops which is embarrassing to you, you will be viewed as the primary instigator. Nobody in their right mind wants any part of that game.

d) The Outside World. The outside world consists of the dreaded "central administration," the alumni and the "powers that be"—the board of trustees, the legislature, etc. First of all you are not going to have, initially, much contact with those constituencies. They will not know much about you, except when the dean gives his annual message about how brilliant he or she was in the last hiring year. In short, don't worry too much about those constituencies. If, early in your career, you take on outside causes very visibly, which might embarrass some constituencies, then and only then will they notice you. Now, I want to make it clear that you have every right, under traditional notions of academic freedom, to take public positions.³¹ In certain situations it may be important

³¹ The scope of "traditional notions of academic freedom" may be narrower than most professors may think. Furthermore, classrooms may not be the best venue for taking public positions or, as Stanley Fish would have it, "saving the world." Stanley Fish, *An Authoritative Word on Academic Freedom, Think Again*, N.Y. TIMES, November 23, 2008, <http://fish.blogs.nytimes.com/2008/11/23/an-authoritative-word-on-academic-freedom/#more-131>; FISH, *supra* note 22, at 72–82.

as a matter of your conscience that you do so. But recognize it is only in those times that the outside world will notice you. You need to be prepared for the reactions you might bring on. It is not bad advice to suggest that you seek advice from senior colleagues and other knowledgeable souls prior to making bold moves. The outside world wants you to be brilliant, they want you to carry the name of the school to new and greater heights, but they are inherently afraid of controversy. I'm not telling you not to be controversial. I'm simply suggesting that before you do so know what you're getting in to.

Let's Talk About You. How do you be true to yourself, when the expectations I told you about above are conflicting? Clearly the student expectations of what you should be are different than that of the dean's. The dean's are somewhat different than that of the faculty's. By and large it all revolves around how well you do a simple thing. And that simple thing, oddly enough, is called "doing your job." Here I need to state another hard fact. That fact will not make me popular with you, but is a fact nevertheless. You are an employee. You draw a paycheck. Your employer, even though an academic employer, has a reasonable expectation that you are there, that you do your job, that you follow normal institutional norms. If you get too far out of line from any institutional norm, even though you may be acting well within your academic freedom, you will become controversial. Just because academics live in an unstructured environment—as unstructured as you are ever likely to see in an employment situation—doesn't mean that there aren't some bottom line expectations which must be fulfilled. For example, you have to meet your classes and you have to get your grades in on time. There is nothing that will make students angrier—and you know from your own legal education background that's true—than those faculty members who are perpetually late with grades. The example of lateness is the worst kind of teaching. By our lateness we teach students to miss statutes of limitations and we teach them to ignore client needs. We inculcate professional irresponsibility. Remember, we teach by example as well as by what we do in the classroom. Incidentally, as an old experienced dean, there is nothing that makes any dean angrier than a colleague who is perpetually late with grades. Deans are like elephants. They remember. They remember when they set salaries, they remember when they evaluate you. Another institutional norm is that you must go to class regularly. You cannot cancel classes and simply never make them up. The ABA and the AALS have

rules about how many hours students have to meet. If you miss a class, most law schools expect you to make it up.

Let's talk a little further about grading. Whether it's written down or not, almost every institution has norms about grading performance. If you vary from the norms too early as a young faculty member, you can be in deep trouble with both students and colleagues.³² If you are too liberal, and become the "Santa Claus" of the faculty, you will get in deep trouble with your colleagues. The students will be happy, but your colleagues and your dean will be very unhappy. Such conduct blows out the normal performance curve, your section gets out of line with other sections, and believe me, the students in the other section taught by the normal grader will be outraged. I can think of no way for a young faculty member to get cross-wise with colleagues quicker than by breaking normal grading expectations. On the other hand, if you go the other route and become the faculty's "Simon Legree" giving too many D's and F's, you can also expect deep trouble. For what advice it's worth, in big classes, particularly in the second and third year, don't break normal grading patterns until you know the ropes. Ask colleagues and the dean probing questions before submitting your first grades.

All of the above may be a little overwhelming, and a little depressing. After all, didn't you become a law teacher to have independence, to take charge of you own life? And the answer is obviously yes. But think about the expectations above. Most are not unreasonable. You can, in fact, balance them fairly well, even though different constituent groups view your job somewhat differently. Nobody, for example, is likely to interfere with the material you select to teach in the courses you are assigned. Nobody will try to influence the content of the law review articles you write. You will have your academic freedom in the classroom and you will have it in what you write. If you exercise your academic freedom there, where it is normally expected you will exercise it; and, if you meet reasonable institutional norms, your employer (and that is after all what an academic institution is, an employer) you are off on the right track.

Remember, you will be lonely. The dean was delighted to see you come and the dean wants to see you often. However,

³² Most law schools now have grading curves, sometimes different for the first year and the upper years. Harvard, Yale and Stanford have pass-fail systems. Harvard Law School to Adopt Pass-Fail Grading System Like Yale and Stanford, <http://leiterlawschool.typepad.com/leiter/2008/09/harvard-law-sch.html> (Sept. 26, 2008).

the dean is probably over worked. He or she is going to be down in that office with a mountain of paper. Nevertheless, if you have a problem, they truly want you to come and talk to them. If it is doing nothing more than popping in to say hi now and then, let them know you're around. That's good advice also for colleagues. It's also plain good tactics. It's perfectly alright occasionally to ask the dean or colleagues, "How well do you think I'm performing?" Or, "How can I improve?" By showing your interest in improvement, you add substantially to the word-of-mouth reputation about you. Your desire to improve will wash away a lot of complaints.

A nit-picky point, but an important one, is don't be outraged too quickly. For example, don't go to the dean with a head of steam—in a full attack mode—because of every single stupidity inflicted on you. Suppose you asked to teach no earlier than 10:00 a.m. in the morning and you end up on the teaching schedule at 8:00 in the morning. If you go and flay the dean, you will not help yourself. It is perfectly alright to go chat about a problem and listen to the other's concerns. If you have a grievance, and you surely will have many, cool down and make an appointment to talk it out. There is no point in being outraged too quickly.

Now a word or two about those dreaded words, tenure and—promotion. Don't ever use the oldest excuse in the world, "nobody told me." Too many deans have heard too many young people say "nobody told me I had to publish, nobody told me I had to keep regular office hours, nobody told me I couldn't miss classes and then just fail to make them up, . . . nobody told me." That excuse just won't wash.³³ You cannot live in an institution three to five years and not know what the rules of the game are. Whether anyone sat down and gave you a tenure and promotion policy or whether you picked it up by word of mouth, you surely will know what the game on tenure is at your institution. Whether the rules are written down or not there are institutional norms, and you are expected to know them. At almost any place there is community knowledge about roughly the number of articles you need to produce, roughly the length of them, and what has worked in the past for others and what has not worked in the past. "Nobody told me" is not acceptable. It won't be believed and it will be resented. The burden is on you to figure out the institution. Ask questions. Talk to others in the coffee lounge.

³³ Entry-level professors now know the game before the first day on the job. This level of savvy coupled with increased mentoring, both before and after accepting a position, have pretty much extinguished this problem.

Be around and be visible. Remember the bottom line is simply: do your job. And again, your job is primarily teaching and writing.

You've opted into a game where the rules were set long before you arrived. If you get to a law school and want to change all of the ground rules in the first two or three years you are going to meet with problems. If you are there two or three years and then announce that requiring one to publish a certain amount is unjustified, you are in the process of trying to change the rules after you started to play the game. You won't succeed.

Lastly, the most important thing of all is to be fair to yourself. You are arriving at a very unstructured environment. Very early on you could get used to a 35 hour or less week and no one would say much. The harvesting time, after all, doesn't come for three or four or five years. But accountability does arrive and bad work habits that have been cumulative will cost you dearly. So be fair to yourself in arranging your time. Be fair to the school in carrying your own weight. Be fair to students. They are, after all, human beings who are very bright who will mold this nation's legal institutions in the future. They are important. Treat them with dignity and respect and at the same time demand the very best out of them. Don't let them get by too easily. Be fair to your colleagues. Be open, visible and communicative. Don't join cabals or conspiracies or factions. That's almost a death route. Be fair to the staff. The staff at a law school is largely comprised of very beleaguered folks who are very loyal indeed. They make the place go. They are under paid and under recognized. Don't ever abuse them. Respect them for the work they do for you. Be fair to librarians. Many of them are well educated and are professionals in their own right. They can be incredibly helpful to you in your early years of scholarship. Treat them well and cultivate them.

The danger and the joy are the same. Manage your time and manage your conscience in an unstructured environment. The unstructured nature of the law school world will either make you or destroy you. The six or seven hours a week you are going to teach, and the few committee meetings you attend during the week, can make life deceptively easy. If you treat your own schedule too lightly, or try to take advantage of the system, you will destroy your own career. On the other hand, that same unstructured environment allows you to do the quality scholarship, and the creative thinking, that can make you a giant in your field. The risks and the benefits are the

same. Your task is to understand how to operate in that unstructured environment.

Welcome to the law school world. You are at a place where you can have great joy and incredible personal fulfillment. To do the best you can do, it is wise to understand the expectations of those other constituencies discussed above. Be true to yourself while trying to fill those reasonable expectations of others. Good luck.

Very truly yours,
Frank T. Read
Dean

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