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EDUCATING LAW STUDENTS FOR LEADERSHIP ROLES AND RESPONSIBILITIES

*Donald J. Polden**

I. INTRODUCTION

THIS essay articulates the case for educating law students for leadership roles and responsibilities they will assume throughout their careers. While leadership education is relatively commonplace in American business schools, it is not a familiar part of the law school curriculum at American law schools. This essay describes this new educational initiative and the fundamental reasons for this approach to preparing law students for the roles and responsibilities they will assume in their communities and in the legal profession.

In particular, this essay discusses the components and purposes of the program and defines what is meant by education for leadership by lawyers. It also attempts to make the case that leadership skills and attributes are fundamental lawyering skills and that educating law students for leadership roles and responsibilities advances efforts to expose our students to a broader array of fundamental lawyering skills and values. This essay expresses the hope that legal educators and law firm professional development experts will build leadership training into their curricula and their programs.

II. THE GENESIS OF SANTA CLARA LAW'S PROGRAM FOR EDUCATING LAW STUDENTS FOR LEADERSHIP ROLES AND RESPONSIBILITIES

My school, Santa Clara University School of Law, recently initiated efforts to educate its law students for leadership roles and responsibilities in the legal profession and in their communities. The programmatic efforts included a "first of its kind" course in leadership skills for lawyers, the development of some scholarship about the concept of leadership by lawyers, several discussions of the importance of educating law students for leadership roles, and leadership skills training for student leaders at the law school. Moreover, leadership course components are being constructed and used in a law school course with the hope that other components in other courses will be developed in the future.

* Dean and Professor of Law, Santa Clara University. This essay is based, in part, on an earlier version: Donald J. Polden, *Educating Law Students for Professional and Community Leadership*, THE COMPLETE LAWYER (2007), <http://www.thecompletelawyer.com/volume3/issue5/article.php?ppaid=4440>. The essay benefited from thoughtful and helpful comments by Assistant Dean Marina Hsieh and Robert Cullen, and from Bob Jerry's excellent article, *Reflections on Leadership*, 38 U. TOL. L. REV. 539 (2007).

Several purposes were served by launching this initiative at Santa Clara University. First, the education of students for leadership roles as lawyers is consistent with many aspects of the law school's mission.¹ The law school attempts to educate ethical, competent, and compassionate lawyers who are encouraged to make a difference in their communities and to prepare them for the roles they will play in law firms, in the courts, and in government and public service. Indeed, Santa Clara's law school offers a social justice and public interest certificate program that its students are encouraged to fulfill, and it has a long history of graduating public interest lawyers who serve their communities through service in government, social justice lawyering programs, and other public service positions.

Second, the law school benefited from several considerable assets that are unique to Santa Clara University. Robert Cullen, a prominent California attorney who has taught at the law school for several years, proposed the idea of a course in the subject of leadership for lawyers. He has taught the course for the past two years and it has generated a considerable body of literature and a very substantial following of law students who are interested in the course.² A significant resource for the development of the course and the law school's leadership initiative is an outstanding leadership curriculum in the Santa Clara University's Leavey School of Business. Barry Posner, Dean of the Leavey School of Business, is a leading scholar and teacher in the area of leadership skills for business professionals, academics, and administrators.³ Dean Posner assisted us in understanding the applicability of leadership principles to the work of lawyers and he helped us understand how instructing students in these essential skills would be beneficial to their success as lawyers and community servants. Finally, one of Santa Clara's more prominent graduates, Stephanie West Allen, is a leading educator in the area of professional development of young lawyers and has been developing a rich core of ideas and materials on leadership skills for lawyers.⁴ Professional development is a burgeoning area of education and training in law firms and Santa Clara Law already has recognized the necessity of directly preparing its graduates for entry into the profession by creating its Academic and Professional Development program in 2005.⁵

1. The law school's mission statement provides: "Santa Clara University School of Law will excel in preparing its students to meet the challenges of a legal profession that is increasingly global, technologically sophisticated, and culturally diverse. In fulfilling this vision, the Law School is dedicated to educating lawyers of competence, conscience and compassion." Santa Clara Law—Statement of Purpose, <http://www.scu.edu/law/about/statement-of-purpose.cfm> (last visited Jan. 12, 2008).

2. Additional information about the course can be located on the course website of Professor Cullen, <http://www.leadership4lawyers.com> (last visited Nov. 12, 2007).

3. See generally JAMES M. KOUZES & BARRY Z. POSNER, *A LEADER'S LEGACY* (2006); JAMES M. KOUZES & BARRY Z. POSNER, *THE LEADERSHIP CHALLENGE* (1997).

4. See Stephanie West Allen, *Idealawg*, <http://westallen.typepad.com/idealawg/> (last visited Oct. 24, 2007).

5. The program is designed to prepare students for success in law school and for entry into the legal profession. Essential components of the program are the student academic success programs and curriculum, the bar examination programs and activities, and programs and activities to assist students in making the transition to the practice of law.

Third, the development of this leadership program reflects our belief that leadership is a key skill that lawyers need to possess and demonstrate and that such a program can be taught in the law school context. The focus on leadership as a fundamental lawyering skill is consistent with national trends to rededicate the law school educational mission to the development of lawyering skills and values in young lawyers.

III. DEFINING LEADERSHIP SKILLS FOR LAWYERS

In understanding the Santa Clara Law initiative to educate its students for leadership roles and responsibilities, it is helpful to consider the fundamental leadership skills and attributes applicable to lawyers.⁶

There are many definitions of leadership and many scholars and writers have defined it in different ways. Therefore, it has been important for the law school to ensure that the definitions and concepts that we use have academic credibility and align with the important ethical and moral attributes of the law school's programs and goals. Research on the topic generated key points that led to a credible definition of leadership and informed the program at Santa Clara Law. The following points highlight the law school's "working definition" of leadership skills for lawyers:

First, leadership is a process; it is not a position. Some people are put in leadership positions; but the position itself does not solely define the leader. Rather, the position merely gives the individual an opportunity to be a leader. People in leadership positions may or may not be good leaders. Leaders *emerge* in organizations and situations where they are called upon to create change. Leaders rely upon their skills, relationships, and insights, and they do this through a leadership process.

Second, practicing leadership requires the definition and creation of a vision or a solution that results in positive and ethical change. This is a very important aspect of the leadership definition at Santa Clara's law school and to the legal profession. This ethical and moral component is crucial to the law school's mission to educate students of competence, conscience, and compassion.

Third, leadership requires influence. Again, there are different ways to influence others and to persuade them that change is necessary. Advocacy may be the appropriate way to persuade in one circumstance or situation, yet it might not work in another. Leading lawyers easily move out of advocacy to supportive and constructive communication, negotiation, and alternative dispute resolution, when called for. Also, they lead and persuade by example. This is especially important in a law school where faculty, deans, and key staff members lead by example and "model" the exercise of ethical leadership for students.⁷

6. See Robert Cullen & Donald J. Polden, *Leadership: A Critical Skill for Lawyers*, THE COMPLETE LAWYER (2007), <http://www.thecompletelawyer.com/volume3/issue3/article.php?ppaid=2085>.

7. JAMES MACGREGOR BURNS, LEADERSHIP 81-95 (1978) (describing the social influences of leadership as building around family and peer groups and the influences they provide to the development of young learners into leaders). While many of the instincts and interests in

We at Santa Clara believe that it is possible to arrive at a credible, substantive, and ethical definition of leadership that works well for legal education and for the professional development of lawyers. Bob Cullen uses this definition in his Leadership for Lawyers class: Leadership is “[t]he process by which an individual or group influences others to achieve positive, ethical change.”⁸

This definition of leadership attributes informs the leadership education that is advanced by the law school. As pointed out by Dean Barry Posner in *The Leadership Challenge*, leadership is for everyone; it is for all law students and for all law professors and administrators.⁹ It is not the responsibility of a student body president or a future president of the American Bar Association, but rather it is everyone’s responsibility to consider and acquire basic leadership skills.¹⁰ Furthermore, we develop our students by teaching skills in the leadership class and in the law school’s leadership programs. Like leadership education programs and courses in business schools, we focus on the skills necessary to develop our students into leaders through the articulation and identification of a set of skills and practices that are available to all lawyers.

IV. LEADERSHIP: AN IMPORTANT AND FUNDAMENTAL LAWYERING SKILL

In 1992, the American Bar Association published a very influential report: the *MacCrate Report*, on legal education in America.¹¹ The *MacCrate Report* invited serious attention in legal education and the legal profession to (1) a broader range of lawyering skills and values than those traditionally taught in law schools¹² and (2) a challenge to modernize the mainstream law school curriculum to educate law students to this fuller range of essential lawyering skills and values.¹³ In an essential part, the report demonstrated that law schools teach some of the fundamental skills that lawyers use on a daily basis in their work; however, there are many other essential lawyering skills that are not taught to law students.¹⁴ The report recommended that law schools expand their curricula to educate their students in the full range of lawyering skills and values.¹⁵

leadership are shaped before law school, it is clear that law faculty members help shape many of the perspectives that new lawyers take to their careers.

8. Cullen, *supra* note 2.

9. See KOUZES & POSNER, *supra* note 3, at xx.

10. See, e.g., Donald J. Polden, *Key Strategies to Enhance a Dean’s Effectiveness*, in LAW SCHOOL LEADERSHIP STRATEGIES 21, 24-25, 27 (2006). See also JAMES M. KOUZES & BARRY Z. POSNER, ACADEMIC ADMINISTRATOR’S GUIDE TO EXEMPLARY LEADERSHIP (2003).

11. AMERICAN BAR ASSOCIATION, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter *MacCrate Report*]. The Task Force Report is commonly referred to as the MacCrate Report, after the Chair of the committee, Robert MacCrate.

12. *Id.* at 330-34.

13. *Id.*

14. *Id.* at 233-36.

15. *Id.* at 330-34.

The *MacCrate Report* has generated considerable discussion and has led to the greater opportunities in law schools for students to develop critical lawyering skills. Indeed, the American Bar Association's Section on Legal Education, the official accreditation agency for American legal education, recently imposed a requirement that all law students at accredited law schools receive opportunities to develop lawyering skills experience during their law school experience.¹⁶

The precise role that legal education plays in shaping the skills, values, and attributes of lawyers has been discussed in other contexts. The recent report of the Carnegie Foundation on the approaches to legal education stresses the importance of skills building and education in law schools.¹⁷ The authors recommend that law schools offer an integrated curriculum that includes: (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) the introduction to many facets of practice included under the concept of lawyering, leading to acting with responsibility for their clients' welfare; and (3) an exploration and assumption of the identity, values, and dispositions consistent with the fundamental purposes of the legal profession. Clearly, education for leadership roles is a critical aspect of such an integrated curriculum. Therefore, law schools should seek to develop opportunities to inculcate in their students a desire to become better leaders in much the same way that they encourage students to be more effective negotiators, mediators, or litigators and to be ethical, dispassionate advocates for their clients' interests.

Another group, building on the *MacCrate Report* and the Carnegie Foundation's *Educating Lawyers* report, has attempted to articulate a set of "best practices" for educating law students for their later social, professional, and economic engagement in the practice of law.¹⁸ This report encourages law schools and others to rethink the process of legal education and encourage, among other things, the development of ways of educating students for a clearer, more pertinent professional identity, one that balances responsibilities to clients, community, and the profession.¹⁹ We believe that leadership education advances that goal through its focus on skills and attributes in young lawyers, such as the development of self-confidence, the ability to envision a need for change, the use of ethical conduct to obtain change or reform, and the ability to persuade others of the need for change. These are lifelong skills that will make their work as lawyers more rewarding and beneficial to their clients and communities.

16. See American Bar Association, Standards for Approval of Law Schools § 302(b)(1) (2006-07), available at <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf>.

17. WILLIAM SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 87-89 (2007).

18. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 1-5 (2007).

19. *Id.* at 24-29.

V. LEADERSHIP EDUCATION IN THE BROADER CONTEXT OF EDUCATING FOR PROFESSIONAL COMPETENCE AND RESPONSIBILITIES

It is useful to understand how this educational initiative on leadership fits into the broader conception of legal education and the roles that law schools play in preparing their students for service as lawyers. The belief that leadership skills are among the important skills that students need has informed Santa Clara's initiative in creating opportunities for acquiring and enhancing leadership skills during law school. It is also a belief shared by lawyers and judges interested in the work that lawyers do in our communities and in society. Ben W. Heineman stated it this way in a lecture at Yale Law School on lawyers as leaders: "[t]he concept of being a lawyer should encompass the broadest kind of leadership because our core skills, properly conceived, of understanding how values, rules and institutions interrelate with social, economic and political conditions is as central to the demands of leadership as any other professional or disciplinary background."²⁰

An important aspect of the leadership skills taught at Santa Clara's law school are that they are an additional skill set needed by students to be successful lawyers and leaders. Cullen emphasizes legal skills in his class (as they are emphasized throughout the curriculum), but he supplements his students' education by teaching them the skills that are necessary in the business world, the community, and in their practice. He focuses upon creative thinking and problem solving, team building, persuasion (beyond advocacy), motivation of others, and cooperation not competition. Therefore, an essential emphasis in the class is the teaching of skill sets that are not typically taught in law school or not explicitly framed as such for law students, but are important to leadership roles and positions that students will take in their careers and are critical to success in the practice of law.

We see this connection between legal education, responsibilities of lawyers, and education for leadership in many ways, including through an examination of the roles that lawyers have played in politics, social movements, professional group activities, and other leadership positions. Indeed, leadership education is often advanced through the study of role models who have articulated a vision of what is right and necessary and invited others to join the process of change. While it is useful to study the contributions of a leading actor in this process, we need to remember that there are often many others who have led in their own ways. For example, in his book on the civil rights movement, Jack Greenberg documents the tremendous influences that law students, lawyers, and judges made in advancing the rights of African Americans to receive the same treatment under law as white citizens.²¹ The active engagement of these many people was

20. Ben W. Heineman, Jr., Lecture at Yale Law School: Law and Leadership (Nov. 27, 2006), available at http://www.law.yale.edu/documents/pdf/News_&_Events/HeinemanLecture.pdf.

21. JACK GREENBERG, CRUSADERS IN THE COURTS 375-78 (1994). In *Crusaders in the Courts*, Professor Greenberg describes the formation and functioning of the NAACP Legal Defense and Education Fund (LDF), Law Students Civil Rights Research Council, and the Lawyers Committee for Civil Rights Under Law, both built upon the interest of young lawyers and law students.

as critical to the success of the political and legal effort as the much more obvious leadership efforts of Thurgood Marshall, Constance Baker Motley, and others. Of course, massive social change like the civil rights movement required tremendous leadership skills of lawyers. Even within the progress of the movement, difficult leadership decisions with which reasonable minds would differ were required.²² Lawyers committed to social justice reform must be particularly sensitive to these competing concerns, and law schools and clinics must address these challenges.²³

Moreover, the Santa Clara leadership education initiative also responds to growing concerns that the contemporary practice of law has caused many lawyers to lose their “moorings” as wise “statesmen” and community leaders.²⁴ Instead of serving as community models of professional excellence, discernment, and good judgment, lawyers in contemporary America are perceived as caught up in commercial and business demands of their work and are not sufficiently attuned to their prudential roles in, and their professional responsibilities to, their communities, to the national polity, and to the legal profession itself. Leadership education attempts to inform all lawyers that they have the ability and the responsibility to lead, ethically and morally, in their law firms, communities, and the profession.

VI. CONCLUDING COMMENTS

The recommendation put forth in this essay is a simple one: Law schools can and should be educating their students for the leadership roles they will be playing in an increasingly complicated global profession because our communities and societies need greater leadership manifested in business, government, public policy, and in the legal profession. Indeed, several contemporary perspectives on legal education suggest that not enough attention is being given to a full range of fundamental skills necessary to serve clients’ needs and that leadership skills are increasingly an integral part of a modern professional education. The program at Santa Clara University’s law school is intended to meet these pedagogical and educational goals and the mission of the law school to educate the “whole lawyer.” Moreover, I hope that our efforts to

Indeed, he concludes his discussion of the history of their involvements in LDF by stating that “LDF lawyers have been leaders in the practice of private and public law.... Those very qualities of courage, character, selflessness, and dedication that originally drove these young people to enlist their precious time and talent in the service of others inevitably caused them to stand out as very special people in whatever they attempted.” *Id.* at 521-22. It is not surprising that many of these leaders have migrated into legal education (including law faculty members at Santa Clara’s law school) where their vision is helping shape future lawyers.

22. *See, e.g.*, Derrick Bell, *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 *YALE L.J.* 470 (1975-76) (noting the tensions between individual client interests and preferences with ideals of community service).

23. *See, e.g.*, Michelle Jacobs, *People from the Footnotes: The Missing Element in Client-Centered Counseling*, 27 *GOLDEN GATE U. L. REV.* 345 (1997).

24. *See, e.g.*, ANTHONY KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* 13 (1993).

advance the interest of educating law students for leadership roles in their careers and in their communities inspires similar programs and curricula at other law schools and in professional development training programs at many law firms.