Library Director as Negotiator/Horse Trader: Analysis Two

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Analysis Two

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I walked forty-seven miles of barbed wire, I got a cobra snake for a necktie
A brand new house on the road side, and it’s a-made out of rattlesnake hide
Got a brand new chimney put on top, and it’s a-made out of human skull
Come on take a little walk with me baby, and tell me who do you love?

Who do you love? Who do you love?
Around the town I use a rattlesnake whip,
Take it easy baby don’t you give me no lip
Who do you love? Who do you love?

I’ve got a tombstone hand and a graveyard mind,
I’m just twenty-two and I don’t mind dying
Who do you love? Who do you love? Who do you love?

Now Arlene took a-me by my hand, she said
“Lonesome George you don’t understand,
Who do you love?”

George Thorogood’s cover of Bo Diddley’s “Who Do You Love?”

Sharon should not come out with her guns blazing, and not react to the dean’s surprise decision with a “rattlesnake whip and don’t take no lip.” Fortunately, she had a cooler head. Sharon knew not to shoot the messenger; Brian is a colleague, and very likely an ally. She also began by asking the right questions: who was at the meeting, and is this a done deal?

The Registrar and Associate Dean for Academic Affairs also may be allies. Brian told her that neither “appeared to be all that excited about the dean’s idea,” and the Registrar phoned Sharon to tell her that she and the Associate Dean thought the dean’s plan did not address existing scheduling problems.

If you have allies, there must be enemies, right? Not necessarily. The dean acted inappropriately even thinking about taking library space without consulting Sharon, but this doesn’t mean he’s an enemy. One of the first things you must do is distinguish an “enemy” from someone who might just be uninformed, undiplomatic, or a bit thoughtless.
Most law school deans work 60-hour weeks as administrators, fund-raisers, back-patters and politicians—and sometimes still as scholars and teachers. While some deans seem to take forever making what appear to be easy decisions—perhaps thinking about every possible impact or reaction a decision may have—others may make impulsive decisions and/or go for the low-hanging fruit. If your dean is your enemy, it’s time for one of you to get another job. (You may want to wait him or her out; most law school deans last less than five years). Let’s just say for now that Sharon’s dean acted rashly. Hopefully he’ll change his is mind. The question is “how”?

Before contacting anyone or doing anything, Sharon should ask herself—

- Can the law library (its staff and users) turn this into a win?
- Is there a “win-win” solution: everyone wins and no one loses?
- What information should I communicate, and with whom?
- What information should I have before each communication?

In answering the first two questions, a director needs to have a pretty good sense when an alternative proposal will be considered by others ... and when merely proposing an alternative makes you look uncooperative—a legitimate concern for both untenured faculty and administrators who serve at the pleasure of the dean. Sharon’s dean has been on the job for six months, so hopefully she will know how he operates. It’s pretty important that she does.

None of us began our career as an academic law library director; you probably began as a line librarian. But even then, before you accepted a job offer, you probably had a pretty good sense through researching and the job interview of the library’s organizational structure, how its classified and professional staff worked together, and how the administrators—especially yours—and the director operated. Was there a lot of direct oversight, or was it a more freewheeling work environment? Would you be given much direction in your work? Was either your supervisor or the director a micro-manager? Would they tolerate minor mistakes? Would they welcome your questions?

Similarly, a law library director will report to several different deans during his or her career, and will learn about each individual’s working style through research and experience. (In my thirty-one years as an academic law library director I have reported to eight different deans: one during my five years at the University of Idaho, and to four deans and three interim deans during my twenty-six years at William & Mary). As library director, you will likely have some input into the dean selection process if there isn’t a dean already in place when you begin. In that instance, if you do your homework—including contacting librarians at the law schools or firms where the dean candidates have worked—you should have some sense of how each candidate operates. Still, you won’t really know until the new dean comes on board.

Remember that a law school dean should see the law school from a different set of eyes than yours, but this is not very different from how you look at things in your library. While your staff—including the department heads—may approach things with a somewhat narrow focus, you need to look at the library holistically. That’s how the dean should view the entire law school.
You may believe that what’s good for the law library is good for the law school—and you may be right—but the associate deans for admissions, development, and career services feel the same is true for their units. An effective dean cannot say ‘yes’ to every proposal that crosses his or her desk.

Therefore, if Sharon is in an environment where even suggesting an alternative will be seen as uncooperative by her dean, she shouldn’t take this personally; the dean may see something that Sharon does not, and he also may react the same way to other law school administrators’ proposals. And even if her dean is likely to react negatively, Sharon must initiate a conversation. The dean’s actions were taken without her knowledge or input, and they directly affect the library. Sharon needs to go forward, bravely.

Sharon may not think of this as a “negotiation” with the dean, but she should approach it that way. It’s important that both Sharon and the dean understand that she is not telling him he can’t take library space. He’s the dean, and ultimately it’s his decision. Indeed, he probably will appreciate Sharon’s acknowledging—perhaps without actually needing to state the fact—that he has the authority to make decisions that are in the best interests of the entire law school.

Sharon will soon find out if the dean is willing to even discuss this matter. If he is, she should assume that he is willing to learn—and think more about—the entire law school facility and how it is used. The director’s job is to educate the dean and to approach the conversation as a negotiation, even if he doesn’t think it is. Frankly, unless the relationship between the dean and the Sharon has deteriorated to the point that they don’t talk to each other, it’s hard to imagine this conversation not taking place.

Before I get to the next step on the negotiation process, I want to address questions that have been raised in similar situations: how to train a new dean, and how to give a new dean bad news.

You don’t “train” a dean. You can train your pet dog, and hopefully you will have more success than I’ve had training mine. But you don’t train faculty, staff, and administrators; you educate them about you and your staff’s skills and the services the library provides. If the library has been doing a good job for its students and faculty, the dean should already know this. But what if there are problems—or perceived problems—with the library?

A dean gets information from lots of different people in the law school, including faculty, other administrators, and students. (Keep in mind that complaints are usually whispered, not shouted). Even if your dean rarely sets foot in your library, he or she probably knows if it is falling short in some areas. You don’t want to be surprised; you want to know if the dean, faculty, or students think improvements are needed in library collections, services or staff before the whispers turn into shouts.

So how does a director give a dean bad news? First, never give bad news without some explanation. Hopefully you also will have some solutions. If the library is short-staffed due to unexpected retirements, resignations, or illnesses, tell the dean. You also need to share bad news with others who need to know, and you need to know who those persons are. Some examples:
Your library is short-staffed due to unexpected retirements, resignations, or illnesses that affect library services. Here you probably need to share this with the whole law school community. Don’t just say “the library is short-staffed so we can no longer do A and B and C.” Instead, explain that you are dealing with the problem, and that the library will continue to provide the highest service priorities.

The law library shares cataloging responsibilities with the university library and you are temporarily short-handed. Send an email to the university library’s head of cataloging, with copies to the head of technical services and the university librarian. Identify the problem, how long it might last, and how you plan to deal with it. (While I probably would begin with a phone conversation, I’d send a follow-up email to memorialize the communication).

Your staff member Jane Doe tells you she will be treated for cancer and will be out two months for treatments. This is a sensitive issue, so take a breath and answer two questions: (1) who needs to know?, and (2) what information should I convey? Answering the first question is pretty easy: those whose job-related duties will be affected by Jane’s absence need to know that she will be out. The second question requires more subtlety, and you should ask Jane what she is comfortable with. If Jane says you can tell them that she has cancer and will be out for treatments for two months, then you can go ahead and do that. But if Jane says just tell them she will be out on medical leave, then that is the only information you will share. In either case, when you share this unfortunate news, also explain how you will deal with Jane’s absence.

Back to negotiating. We are librarians, so it’s logical to look for guidance from literature on this topic. Here are a few books I like:


I like *Getting to Yes* the best. The authors’ main messages are (1) we negotiate with everyone we meet from morning to night; and (2) negotiation is a search for mutual gain—what they call “principled negotiation.” Fisher and Ury suggest four basic elements of negotiation:

- Separate the people from the problem;
- Focus on interests, not positions, and avoid having a bottom line;
- Develop multiple options for mutual gain, then decide; and
- Insist that the result be based on objective standards.

Principled negotiation also has three stages:
Analysis: Gather information, organize it, and think about it;
Planning: Generate ideas, identify the most important interests and reasonable objectives, and also reasonable options and criteria for deciding among them; and
Discussion: Understand each other’s interests, jointly generate mutually advantageous options, and seek agreement on objective standards for resolving opposing interests.

Cleary’s Negotiation Handbook offers similar advice:
• Be ready to leave something on the table;
• Use ‘what if’s?’ to float proposals;
• Ask ‘whose interest is this?’;
• Credibility counts;
• Make realistic proposals; and
• Approach problems as you would a mediation: it’s not my or your problem, but ‘our’ problem.

So how might Sharon deal with the various individuals mentioned in the fact pattern above? First, she should talk to the reference librarians. It’s good that Sharon calmed down; now she needs to calm her staff by explaining what’s going on, and she needs to do this without putting down the dean.

This is something I would do face-to-face, not via an email message. I would sit down with the reference librarians, and tell them that this isn’t a done deal yet and that I plan to meet with the dean. I also would acknowledge that library space might indeed be appropriated for other law school needs. Then I would ask the librarians to answer this question: if the library needs to sacrifice space for seminar rooms, faculty offices, or some other purposes, what would they suggest?

I would remind the librarians that ultimately this is the dean’s decision, and that the library’s recommendations might not be taken. While I would not promise that we can turn lemons into lemonade, I would promise my best efforts to do what’s best for library users and our staff. Finally, I would tell the librarians that I will keep them in the loop with information that I am able to share with them.

Now Sharon can get begin what Fisher and Ury call the “Analysis Phase,” during which you gather information, organize it, and think about it. I would start with Brian (Facilities Director), the Associate Dean for Academic Affairs (ADAA), and the Registrar; they are important colleagues who are high on the administrative totem pole, and they appear to be allies. Each has an interest in space: Brian is in charge of it, and both the ADAA and the Registrar are interested in scheduling classes. The latter two feel that annexing library space doesn’t solve class scheduling issues.

Sharon should sit down with all of them to get ideas on how they might solve the problems. If we go back to the scenario, we see that the dean identified three issues: a shortage of classrooms, some faculty being unhappy with small offices, and students wanting better technology in the classrooms.
The dean’s “solution” of re-purposing librarians’ offices into faculty offices does indeed solve some problems, but it will create others. Assuming that Sharon will have a conversation with the dean at some point, let’s identify them.

Problems solved:
- A few faculty members will be happy having larger offices. They may be even happier getting off of the classroom floor.
- It creates a new seminar room, one that is sensibly located on the classroom floor.

Problems not solved, or new problems created:
- Not all faculty members will want to be in the library, away from their colleagues.
- Students may not want to see faculty offices adjacent to the library reading room.
- Adding another seminar room doesn’t solve all classroom scheduling problems. According to the ADAA and Registrar, seminar rooms are available during other parts of the day.
- Scheduling even more classes during the prized Monday thru Thursday 10:00 a.m.-4:00 p.m. time period doesn’t give students more course options, but instead makes course selection even worse.
- One technologically advanced seminar room may not meet student (or faculty) desires, per the recent SBA petition.
- Unless the reference desk moves—which could be costly and/or create other problems—the reference librarians will no longer be close to where the action is.
- Sharon will have unhappy staff.

Although the dean’s ad hoc decision-making created more problems than it solved, Sharon needs to be cautious how she approaches the dean, and she needs more information. She also should realize that the dean still might think that his approach solves the law school’s biggest problems.

It sounds like this dean wears blinders when making decisions. But he does know one important fact: his future as dean depends on the support of the faculty. Sharon’s contacting some faculty members may help, especially if she knows who among them have the dean’s ear. And having been the library director for five years, Sharon probably has some champions among them.

But if Sharon speaks with some faculty before talking to the dean, there’s a good chance this will get back to him. And if the dean thinks Sharon is going behind his back, this could make a difficult situation even worse. Right now it’s fine for Sharon to talk to the three administrators who were in the same room with the dean. Meeting with faculty is a different story, however, even though the dean obviously shared his plan with at least the one faculty member who scoped out the reference librarian’s office.

I suggest that Sharon ask the other senior administrators for their take on when and how she should approach the dean. Then she should think about their responses
before making a decision. This also will give her more time to think about the big picture—Planning—Fisher and Ury’s second stage of principled negotiation. At the Planning Stage you generate ideas, identify the most important interests and reasonable objectives, and identify reasonable options and criteria for deciding among them.

I would not wait too long to contact the dean. He already talked to some faculty, and he looks like someone who often leaps before he looks. We all should be cautious about using email for sensitive matters, but because time is of the essence, I might start with a brief message that goes something like this:

Dean ___ (or his/her first name if that’s how you address one another), I understand that you recently spoke with [ ] about space in the law school building—in particular faculty offices and classrooms—and that your conversation included using the law library to address some of the law school’s space needs. I would like to meet with you to talk about this. My schedule is pretty flexible this week and next, and I will make myself available whenever you are free to meet.

While Sharon waits for the dean’s reply, she should continue with the Planning Stage so as to present some options when she meets with him. If the dean doesn’t reply, I would ask the dean’s Administrative Assistant to schedule a meeting with the dean. (In many law schools—mine included—that’s the best way to get on the dean’s calendar). The Administrative Assistant will likely ask what the meeting is about, and Sharon should be direct and honest: It’s to discuss using library space for other law school operations.

I think it’s unlikely, but what if the dean’s Administrative Assistant gets back to Sharon with bad news: the dean replied that he doesn’t need to meet with Sharon. If this happens, Sharon should ask her administrative colleagues (again, they appear to be her allies and are on pretty good terms with the dean) to bring these issues up again with him. While Sharon has thus far “deliberately avoided discussing library space with the dean” and “fiercely attacked all attempts by the law school’s space committee and some administrative departments to take over any library space”, the library is now on the table. And it’s not coming off.

As I write this, during just the last few weeks three articles on library design appeared in my mailbox: Benjamin Meunier and Olaf Eigenbrodt, “More Than Bricks and Mortar: Building a Community of Users Through Library Design,” 54 J. Libr. Admin. 217 (April 2014); Lee Peoples, “Designing a Law Library to Encourage Learning,” 63 J. Legal Educ. 612 (May 2014); and AALL Spectrum’s 14th Annual Architecture Series (May 2014). Sharon might also want to check out Library Journal’s annual “Library By Design” supplement. Not only will Sharon get some ideas about library and law school space design, but these articles also show that libraries are no less important in the digital age than they were a quarter century ago.

A few takeaways from each of these readings:

More Than Bricks and Mortar: The article focuses on “participatory design”, where you involve interested constituencies into the planning process. As examples, the author introduces readers to the Cruciform Hub at University of College London,
and The Hive in Worcester, UK. I like the quote “In summary, successful libraries are not concerned with the provision of information alone, rather they act as the enabler and catalyst for the active intellectual life of a community of users.”

*Designing a Law Library to Encourage Learning:* Author Lee Peoples references many articles and books on library design, especially law libraries. Drawing on Yale University Librarian Emeritus Scott Bennett’s 2003 article “Libraries Designed for Learning,” Peoples writes “[a] law library that engages in the process of designing library space to encourage learning will be in a better position to respond to critiques of the law library’s need for physical space.” He also speaks about libraries as third places: neutral gathering places and leveling environment[s] where students are safe in the knowledge that they are not going to be judged or graded.

*AALL Spectrum’s 14th Annual Architecture Series:* With both articles and photos, the Spectrum series serves as a reminder that law libraries are being built anew and/or renovated every year.

Let’s get back to Sharon’s—no, let’s call it the law school’s—problem. The dean wants to relocate several faculty offices and add at least one more seminar room. It’s now time for Sharon to consider “trading places” with the dean by putting herself in his position. (She also might want to watch the 1983 John Landis film with Eddie Murphy, Dan Aykroyd, and Jamie Lee Curtis, which hopefully will give her some much needed laughs).

Here’s a question for Sharon: If you were the dean, would you look at the library for space? The answer, of course, is “yes.” Sharon admits that the Lexis/Westlaw lab is lightly used. And if the library cancelled subscriptions to print materials like West Reporters and law reviews, she may be able to carve out space in those areas too, especially if she weeded bound volumes from the collection.

Where to begin? I suggest that Sharon’s first goal is “do no harm”: can the law library give up space without harming its users or staff? Better yet is a “win-win”: can she give up some library space, and at the same time make the library a better place for users and staff?

When I came to William & Mary in 1988, the law library’s administrative suite was on the top floor of a three-story facility, along with other law school faculty. The rest of the law library staff was on the main floor. The reference office, which at that time housed a single reference librarian, was hidden away in a far corner on the main floor. We soon added another reference librarian who crowded into that same office, and we planned to further expand the small staff.

I wanted the entire library staff to be on the main floor, so I offered the dean a trade: the law school would take over the library administrative suite on the top floor, and the dean would pay to renovate the main floor of the library. The dean readily agreed, and we built five new offices, a new Circulation/Closed Reserve area, an Open Reserve room, and a large computer lab.

While this and another minor interior renovation helped, we still needed more space. Furthermore, the digital revolution that was taking place made our 1980 facility appear more dated each year. I soon began lobbying for more and better
space, and in 1999–2000, I used law library funds to hire an architectural/engineering firm to engage in “pre-planning and cost analysis” for a major library renovation and expansion. The 2001–2003 recession forced us to hit the pause button, but when the economy recovered, we were well-positioned to receive state funding for this project.

In 2007 we got a brand new library by completely renovating the existing facility and adding a large addition. The dean (i.e., the law school) was also a winner in this $16M project: I offered to house the offices for our law journals on the ground floor of the library, as well as the student organization offices. Definitely a “win-win” for the law library, and for the entire the law school.

This takes us to the Fisher and Ury’s Phase 3—what they call “Discussion.” Here the parties must understand each other’s interests, jointly generate mutually advantageous options, and seek agreement on objective standards for resolving opposing interests. So let’s return to Sharon’s story.

As we read earlier, the Registrar and Academic Affairs Dean think the “seminar room problem” has more to do with class schedules than room shortages. Maybe those two administrators can convince the dean to force (bribe?) faculty to teach in their “non-preferred blocks,” which could obviate the need for any new classrooms. And as we will soon see, Sharon will have more to offer.

Sharon needs to understand that it may be hard, maybe even impossible, for her dean to do this. Although he has the power to make this happen, he may choose not to exercise it. Sharon’s goal is to help the dean solve several law school space-related problems, and it will help if her dean feels like he solved them.

Assuming that Sharon does meet with the dean, she should—

- make it clear that she understands his interests, his concerns, and the law school’s needs;
- share her thoughts about the dean’s plan: how it adversely affects the library, its staff, and its users; and
- Fisher and Ury say “generate mutually advantageous options” by acknowledging that space in the library is on the table should it come to that.

At this point, Sharon already has conferred with many interested parties. She asked the librarians what they would do if the library had to give up space for non-library operations, and she also consulted with her law school administrative colleagues.

As for the faculty member who measured the reference librarian’s office, I don’t know enough right now to say whether Sharon should pay her a visit. If she has been a good colleague and a library supporter, I probably would have a conversation with her.

If Sharon puts herself in the faculty member’s position—once again “trading places”—she wouldn’t want to be on a classroom floor, and she probably wouldn’t want to be isolated from her faculty colleagues. She should be sympathetic, and tell her faculty colleague that she understands her desire for a better office. But Sharon also should tell the faculty member that the reference librarians hadn’t known about this, and ask her to please hold off doing anything more until Sharon gets more information.
This assumes that the faculty member is an agreeable person. If not, this takes us to the question of dealing with difficult faculty. Sharon surely knows that some faculty members perceive their needs as more important than anyone else’s. Sharon can again approach this as a negotiation and employ the techniques discussed above.

As I was thinking about this I imagined conversations with my faculty colleagues at William & Mary. I wouldn’t call any of them difficult. But this isn’t the case everywhere else, so this might be harder for Sharon. I again put on my librarian hat and searched for articles on dealing with difficult faculty. Among the hits were various articles by David Perlmuter, a columnist for the *Chronicle of Higher Education* and a professor and dean at Texas Tech, on how untenured professors and administrators can deal with difficult tenured faculty. Although the articles are not directly on point, they make good reading for library directors.

I also found an article by Ben Bissell from the February 2003 American Association for Higher Education and Accreditation’s website (AAHEABulletin.com) called “Handling Conflict with Difficult Faculty: Tools for Maintaining Your Sanity and Your Dignity.” (The AAHEA article says it’s an excerpt from *Managing People: A Guide for Department Chairs and Deans* by Deryl R. Leaming). Leaming and Bissell offer two sets of guidelines:

**Tools You Can Use:**

- **Stand Up:** Your message is that you are not there to fight or run away, but rather “to be taken seriously and to solve a problem;”
- **Talk Straight:** “Be clear about what you want and what the issue is. Keep your concerns short and to the point;” and
- **Listen:** “After you have presented your concerns, stop and listen to the other person’s response.”

**Solve the Problem:**

- Identify the emotional climate, and calm down;
- Identify the problem from the other’s perspective;
- Stay focused on the problem and don’t wander from it;
- Resist placing blame once the process has begun;
- Avoid name-calling;
- Develop alternatives;
- Evaluate the alternatives and select one. If the other person’s proposal causes more problems than it solves, look for something else;
- Be Clear about Procedure—who needs to do what, and when; and
- Evaluate the Success.

These should sound pretty familiar. Maybe Leaming & Bissell read Fisher & Ury.

Final advice to Sharon: People on the other side of an issue aren’t your enemies. They may not always agree on how to solve a problem, but everyone—Sharon, her dean, other administrators, the law school faculty, and the library staff—can focus on the big picture: what’s best for everyone in the law school, especially the tuition-paying students.
I doubt that the students want to see faculty take over part of the reading room, and hopefully the dean understands that with tools like Facebook and Above the Law, student comments can do real harm to a school. But Sharon should not bring this up to the dean. Maybe one of her administrative colleagues, but not Sharon.

So there you have it: guidance from some experts on conflict management and problem solving, and some comments and examples by yours truly. Sharon needn’t use a rattlesnake whip; her goal is to “get to yes,” and turn a bad situation into a win-win. Thoughtful communication is essential. And don’t forget Fisher and Ury’s elements of negotiation:

- Separate the people from the problem;
- Focus on interests, not positions, and avoid having a bottom line;
- Develop multiple options for mutual gain, then decide; and
- Insist that the result be based on objective standards.

The stages of Fisher and Ury’s “Principled Negotiation” also bear repeating:

- The Analysis Stage where you gather information, organize it, and think about it;
- The Planning Stage where you generate ideas, identify the most important interests and reasonable objectives, and offer reasonable options and criteria for deciding among them; and
- The Discussion Stage where the parties understand each other’s interests, generate mutually advantageous options, and seek agreement.

I suspect Sharon will have some sleepless nights. But if she can stay calm, consult her colleagues, think the problem through, acknowledge that library space is on the table, and offer practical and logical solutions, she has a good chance of making lemonade out of lemons.