

justices are mothers. Justice Sandra Day O'Connor (102) has three sons, and Justice Ruth Bader Ginsburg (107) has a son and a daughter.

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William D. Bader & Roy M. Mersky, *THE FIRST ONE HUNDRED EIGHT JUSTICES* 12–13 (Hein 2004).

## Dropping the *U.S. News* Fig Leaf

THE LION'S SHARE (40%) of a law school's position in the annual *U.S. News* rankings table is determined by the columns labeled "Peer assessment score" and "Assessment score by lawyers/judges" – scores that are derived from responses to surveys mailed by *U.S. News* to "peers" (meaning "law school deans, deans of academic affairs, the chair of faculty appointments, and the most recently tenured faculty members") and "lawyers/judges" (meaning "hiring partners of law firms, state attorneys general, and selected federal and state judges"). Or so says *U.S. News*. The whole survey distribution-response-analysis business is thoroughly cloaked in secrecy, making it a black box susceptible to manipulation by anyone with illicit knowledge of its inner workings, or by the magazine itself. For a sample of the survey sent to "peers," see *U.S. Blues*, 6 GREEN BAG 2D 121 (2003). (*U.S. News* spreads the remaining 60% of a school's ranking over eight apparently less important measures, such as whether graduates pass the bar and get good jobs, and how much schools invest in teachers and teaching resources. The magazine makes no effort to rate the quality of teaching in law schools.)

Thus it should come as no surprise that every law school in the country struggles mightily in the dark to influence survey respondents to give it high marks. A large part of that struggle consists of an ongoing expensive gamble, in which almost every law school is betting a bundle on the following chain of wishful thinking: (1) that the rising *U.S. News* prominence

enjoyed by the New York University School of Law during the 1990s under the leadership of then-Dean John Sexton was in part a result of improved performances on the “Peer assessment score” and the “Assessment score by lawyers/judges,” and (2) that those improvements were not only correlated with, but also at least partly caused by, NYU’s production of some of the sexiest “law porn” ever to come out of the marketing department of a law school. So the challenge confronting the modern marketer-dean is how to get really snazzy marketing materials into the hands of survey respondents.

At the same time, almost every law school (perhaps ashamed to admit its enslavement to the U.S. News rankings, which have no obvious connection to educational excellence or public service) has adopted the posture that its U.S. News-driven marketing efforts are really services to the profession – news reports broadcast to colleagues to keep them up-to-date on the extraordinarily important and unique (and full-color, and glossy, and professionally photographed) work that the school is performing for the profession, the country, and humanity. It is, of course, mere coincidence that that vast majority of these mailings occur in early autumn, just as the U.S. News surveys are arriving in the hands of “peers” and some unknown contingent of “lawyers/judges.”

What a waste of educational resources.

Law schools could save a fortune in marketing expenses (money that could be spent on, perhaps, education) by limiting their mailings to genuine survey prospects. In the law schools, this would be easy. U.S. News surveys just four members of each law school – “law school deans, deans of academic affairs, the chair of faculty appointments, and the most recently tenured faculty members” – for a total of fewer than 1,000 of the 10,000 or so faculty and administrators to whom much marketing stuff is sent. An honest law school could cut its U.S. News-marketing

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George Mason University  
School of Law  
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budget by 90% simply by addressing its mailings to those four people at each school. And, at last, a couple of schools have seen the light. Their students should be grateful, as are all of us who were not burdened with the inconvenience of transferring their materials from office mailbox to office waste can. Here's hoping that "peers" will give Pitt and Creighton a bump up, in recognition of their honest approach to self-promotion.

See [www.usnews.com/usnews/edu/grad/rankings/about/o6law\\_meth\\_brief.php](http://www.usnews.com/usnews/edu/grad/rankings/about/o6law_meth_brief.php).